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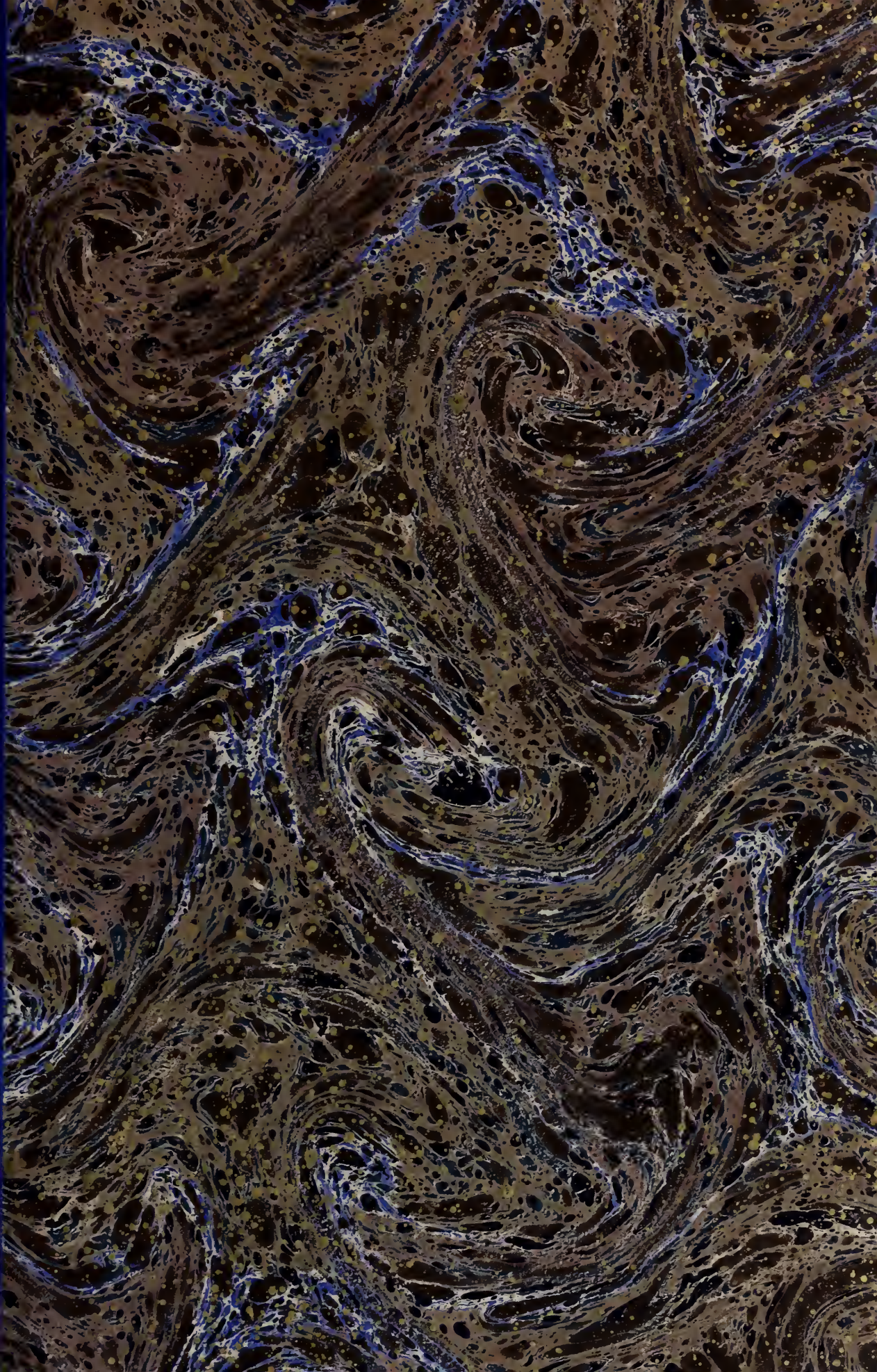

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NEPTUNE to the COMMON-WEALTH of *England*.

(1)

OF Thee (great STATE!) the God of Waves
In equal wrongs, assistance crave's,
defend thy self and mee:
For if o're Seas there bee no sway,
My Godhead clean is tane away,
the Scepter pluckt from thee.
Such as o're Seas all sovereigntie oppose
Though seeming friends, to both are truly foes.

(2)

Nor can I think my suit is vain,
That Land the Sea should now maintain,
since retribution's due:
And *England* hath great wealth possest
By Sea's access, and thereby blest
with plenties not a few:
Which, next the virtue of thy watchful eies,
Will her secure from forein miseries.

(3)

Thy great endeavors to encreas
The Marine power, do confess
thou act'st som great design.
Which had Seventh *Henrie* don, before
Columbus lanch'd from Spanish shore,
the *Indies* had been thine.
Yet do thy Seas those Indian Mines excell
In riches far: the *Belgians* know it well.

(4)

What wealth or glorie may arise
By the North-West discoveries
is due unto thy care.
Th' adopting them with English names,
The greatness of thy minde proclaim's,
and what thy actions are.
New Seas thou gain'st; & to the antient FOUR
By *Edgar* left, thou addest many more.

(5)

If little *Venice* bring's alone
Such waves to her subjection
as in the Gulf do stir;
What then should great *Britannia* pleas,
But rule as Ladie o're all seas,
and thou as Queen of her.
For Sea-Dominion may as well bee gain'd
By new acquests, as by descent maintain'd.

(6)

Go on (great STATE!) and make it known
Thou never wilt forsake thine own,
nor from thy purpose start:
But that thou wilt thy power dilate,
Since Narrow Seas are found too straight
For thy capacious heart.
So shall thy rule, and mine, have large extent:
Yet not so large, as just, and permanent.

Κλαρεάμων.

ANGLIÆ
RESPVE,
Bombart sculpsit
londini

Jo: Hopkinson

Of the

DOMINION,

Or,

Ownerſhip of the SEA.

TWO BOOKS.

In the FIRST *is ſhew'd, that the* SEA, *by the* LAVV OF NATURE, *or* NATIONS, *is not common to all men, but capable of* PRIVATE DOMINION *or Propriety, as well as the* LAND.

In the SECOND *is proved, that the Dominion of the* BRITISH SEA, *or that which incompaſſeth the Iſle of* GREAT BRITAIN, *is, and ever hath been, a Part or Appendant of the Empire of that Iſland.*

Writen at firſt in Latin, and Entituled,

MARE CLAUSUM

SEU,

De Dominio Maris,

By *JOHN SELDEN*, Eſquire.

Tranſlated into *Engliſh*; and ſet forth with ſom *Additional Evidences* and Diſcourſes,

By *MARCHAMONT NEDHAM.*

Publiſhed by ſpecial Command.

LONDON,

Printed by *William Du-Gard*, by the appointment of the Council of State: and are to bee ſold at the Sign of the Ship at the *New-Exchange*. *Anno Domini* 1652.

THE PREFACE.

I

Beware of this Epistle dedicatoyr
for there is poison in itt. Jo: Hopkinson

TO

The Supreme Autoritie

OF

THE NATION,

The PARLAMENT of the Common-wealth of *ENGLAND*.

(*Right Honorable!*)

I Should not have presumed thus, in the mid'st of so many great affairs, to press into your presence, did I not bring a Present in my hand most worthie of your acceptance. It is that Learned and elaborate Work, entituled MARE CLAUSUM; A Piece so fully vindicating your Right of Soveraigntie over the Seas, by the clearest evidences of Reason, and Record from all Antiquitie, that it

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stand's more impregnable against the Pens, than the Island it self against the Attempts of Forein Nations. It was written Originally in Latin, for the asserting of this Right before all the world; and how they have been convinced by it, appear's hitherto by the universal Admiration that attend's it: But considering what pitie it was, that so rare a Jewel as this, which hath drawn the envie of som few, but the Approbation of All, should lie so long lockt up in a Language unknown to the greatest part of that Nation whom it most concern's; and how necessarie it is, in this present Juncture, to let the People have a clear understanding of their neareſt interest, and how that Right hath been received in all Ages, which a strange People in this latter Age have been bold to undermine; it was judged very requisite to unlock the Cabinet, and expose the Jewel to the view of the whole Nation, that they may prize it, and apprehend not onely their own Interests and Concernments, but how far wee and our Posteritie must stand indebted to the name and memorie of the noble *SELDEN*.

As

As for my self, though it bee accounted one of the meaneſt Services to Tranſlate; yet when I conſulted with my own Thoughts, which way I might beſt expreſs my dutie and affection to your preſent Cauſ, and conſider'd, that little could bee ſaid or collected upon this ſubject of the Sea, which is not abundantly ſet forth in this irrefragable Treatiſe, I conceived it a Task of no leſs importance than difficultie. And now it is don, if it were well don, I ſhould believ my ſelf to have atteined no ſmall happineſs, in having my name any way related to the Learned Autor; who ſhall ever live like himſelf in this excellent Book, as long as there is any memorie of *Britain*, or of the Sea that flow's about it.

It was a work begun (it ſeem's) in the Reign of King *James*, and then laid aſide again for above ſixteen years; but afterwards revived, alter'd, and enlarged by the Learned Autor (as hee ſaith in his Epiſtle) at the command of the *late Tyrant*; And as it was written for him, ſo it was dedicated to him, as beeing ſuppoſed one who was, or ought to have been, a fit Patron

of the Dominion here aſſerted: However, this I finde, that as hee ſeemed, by his naval Preparations in the year 1635, to reſent the many injurious uſurpations of our unruly Neighbors, and did in words alſo ſtrenuouſly aſſert the Juriſdiction at Sea; ſo hee ſet a value upon this Book, as it's main Evidence: and in the 12 year of his Reign it was upon his ſpecial command, deliver'd by the hands of Sir *William Beecher* (one of the Clerks of his Council) to the *Barons* of the Exchequer in open Court; and by immediate Order of that Court, it was placed among their publick Records, where it remain's to this day. Now, had hee perſiſted with the ſame firm reſolution in this honorable buſineſs of the Sea, as hee did in other things, that were deſtructive to the Nation's intereſt, the *Netherlanders* had been prevented from ſpinning out their long opportunitie to an imaginarie Claim of Preſcription; ſo that they would have had leſs Pretence to Act thoſe Inſolencies now, which in former times never durſt enter the Thoughts of their Predeceſſors. The truth is, too much eaſineſs and indulgence to the Fathers and Grand-fathers of

the

the preſent Generation, was the firſt occaſion of elevating them to this height of Confidence, in preſsing upon the Seas of *England*: For, who know's not with what tenderneſs, and upon what terms, they were firſt taken into the boſom of Queen *Eliſabeth*? yet they were no ſooner warm, but they ſhew'd their ſting, and proved the onely great vexation (becauſ deceitful friends) to that excellent Ladie, who, in thoſe Infant-daies, was both Mother and Nurſ of their ungrateful Republick. Too much of the ſame tenderneſs was expreſſed afterward by King *James*, becauſ (as in the former Reign, ſo in his) it was counted Reaſon of State to permit them to thrive; but they turning that favorable Permiſsion into a Licentious Encroaching beyond due Limits, put the King to a world of Trouble and Charge, by Ambaſsies and otherwiſe, to aſſert his own intereſt, and diſpute them into a reaſonable ſubmiſsion to thoſe Rights which had been received before as indiſputable by all the world. For the truth whereof, I am bold to refer your Honors to the Memorials of ſeveral Tranſactions in thoſe daies, which I have added at the

end of this Book; and for which I ſtand indebted (as I am alſo for many other Favors) to a *Right honorable Member* of your own great Aſſembly. By the ſame alſo it will appear, how this People perceiving that King to bee of a temper diſpoſed to uſe no other arguments but words, held him in play with words again, and while they trifled out his Reign in Debates and Treaties, carried on their deſign ſtill to ſuch a height, by a colluſion of Agencies and Ventilations to and agen, and a daily intruſion upon the Territorie by Sea, that in time they durſt plead and print *Mare Liberum*; and after his Son *Charls* came to the Crown, they in effect made it ſo: For, though hee were not ignorant of his own Right, as appear's by his eſteem of this Book, his Preparations, and Proclamation *for Reſtraint of Fiſhing without Licence*, &c. Yet hee never made any farther uſe of them, than to milk away the Subjects monie under pretence of building Ships to maintein his Autoritie by Sea; which end of his beeing ſerved, hee immediately let fall the proſecution of what hee pretended: So that through the over-much eaſi-

neſs

nes and indulgence of preceding Princes, they in a short time arrived to so loftie a Presumption, as to seem to forget and question, and now at length, by most perfidious actings, to defie the Dominion of *England* over the Sea.

These things beeing consider'd, it was supposed this Translation (it beeing a noble Plea asserting that Dominion) would bee a very seasonable Service; which (how poorly soëver it bee apparel'd in our *English* dres) is bold to lay Claim unto your Honors as its proper Patrons, conceiving it ought to bee no les under your Protection than the Sea it self: And therefore let mee have leav here (without Flatterie or Vanitie) to say, though in other things I may injure the eminent Autor, yet in this hee will bee a Gainer, that his Book is now faln under a more noble Patronage, in the tuition of such heroïck Patriots, who, observing the errors and defects of former Rulers, are resolved to see our Sea-Territorie as bravely mainteined by the Sword, as it is by his Learned Pen. It is a gallant sight to see the *Sword* and *Pen* in victorious Equipage together; For, this subdue's the

ſouls of men by Reaſon, that onely their bodies by force. The *Pen* it is which manifeſt's the Right of Things; and when that is once cleared, it give's ſpurs to reſolution, becauſ men are never raiſed to ſo high a pitch of action, as when they are perſwaded, that they engage in a righteous cauſ; according to that old Verſicle,

Frangit, & attollit vires in Milite cauſa.

Wherefore ſeeing you (*Right Honorable!*) have had ſo frequent experience of the truth of this in our late Wars, wherein the *Pen* Militant hath had as many ſharp rancounters as the *Sword*, and born away as many Trophies from home-bred Enemies in proſecution of your moſt righteous cauſ by Land, certainly you will yield it no leſs neceſſarie for the Inſtruction of this generous and ingenious people, in vindicating your juſt Rights by Sea, againſt the vain Pretences and Projects of encroaching Neighbors. For, what true *Engliſh* heart will not ſwell, when it ſhall bee made clear and evident (as in this Book) that the Sove-

raigntie

raigntie of the Seas flowing about this Island, hath, in all times, whereof there remain's any written Testimonie, both before the old *Roman* Invasion and since, under every Revolution, down to the present Age, been held and acknowledged by all the world, as an inseparable appendant of the British Empire; And that by virtue thereof the Kings of *England* successively have had the Soveraign Guard of the Seas; That they have imposed Taxes and Tributes upon all ships passing and fishing therein; That they have obstructed and open'd the passage thereof to strangers, at their own pleasure, and don all other things that may testifie an absolute Sea-Dominion; VVhat *English* heart (I say) can consider these things, together with the late Actings of the *Netherlanders*, set forth in your *publick Declaration*, and not bee inflamed with an indignation answerable to their Insolence; That these People raised out of the dust at first into a state of Libertie, and at length to an high degree of Power and Felicitie, by the Arms and Benevolence of *England*; or that they, who in times past durst never enter our Seas to

touch a *Herring*, without Licence firſt obteined by Petition from the Governor of *Scarborough*-Caſtle, ſhould now preſume to invade them with armed Fleets, and by a moſt unjuſt war bid defiance to the United Powers of theſe three Nations? Had they dared to do this in the daies of our Kings, I ſuppoſe, they (even the worſt of thē) would have checkt and chaſtiſed them with a Reſolution ſuitable to their monſtrous Ingratitude; For, however ſom of them were wholly buſied in vexing and undermining the people's Liberties at home, yet they were all very jealous of the Rights and Intereſts of the Nation at Sea; and good reaſon they had for it, ſince without the maintenance of a Soveraigntie there, the Iſland it ſelf had been but a great Priſon, and themſelvs and the Natives but ſo many Captives and Vaſſals to their Neighbors round about; not ſo much ſecluded, as excluded from all the world beſide. Upon this ground it was, that Kings ever conceived and maintained themſelvs as much Monarchs by Sea as by Land; and the ſame you will finde here was received by all other States and Princes, the Land and Water that ſurround's

round's it, making one entire Bodie and Territorie. Moreover, our own Municipal Constitutions every where declare the same, as may bee seen by the several Presidents and Proceedings thereunto relating; which manifestly shew, that by the Cómon Law of the Land, our Kings were Proprietarie Lords of our Seas; That the Seas of *Engl.* were ever under the Legiance of our Kings, and they soveraign Conservators of the peace as well upon the Sea as Land.

Now therefore (*Right honorable!*) when I look upon you, and behold you more highly intrusted than Kings, and far more nobly adorned upon a better Ground than they were, with all the Rights, Interests, and Privileges of the People; when I consider how God hath wrested the Sword out of their hands, and placed it in yours for our Protection, with the Conservation of our Peace and Liberties, and made you the happie Instruments of freeing us from the yoke of Kings; When I call to minde, how nobly you asserted the Rights of *England* against Domestick Tyrannie, upon the neck of the late King, and laid the foundation of onr Freedom upon the highest Act

of Juſtice (when Juſtice ſat more glorioufly inthroned than ever it did before on any earthly Tribunal) I am raiſed with more than ordinarie confidence, that the ſame Spirit of Juſtice, which acted you in your former atchievments, for our eſtabliſhment by Land, againſt him and his poſteritie, will carrie you on (as you have begun) with the like zeal and magnanimitie, to vindicate thoſe Rights by Sea, againſt all Forein violations and invaſions. It is your honor, that God hath made you Founders of the moſt famous and potent Republick this day in the world; and your felicitie, that all your Enemies have no other Ground of quarrel, but that you are a Republick: For, though theſe *Netherlanders* ſpeak it not out in words, yet they have often told you ſo in behaviour; not onely as they ſaw a barbarous ſtab given you in the perſon of Dr *Doriſla*, yet let ſlip the Murtherers by delaie, (the States-General not having iſſued out ſo much as a warrant for their apprehenſion) but after, in neglecting, ſlighting and ſlender protecting (to ſay no more) of your two Ambaſſadors, and at length in the louder language of the Cannon, during a

 Treatie

Treatie of Peace for a more strict League and Union; when *Tromp* proclaimed to all the world, that their infamous design was by Treacherie to surprise and destroy our Fleets at Sea, which (to use your own language) are, *under God, the Walls and Bulwarks of this Nation.* It is not my business here to recite their many unkindnesses throughout the late wars, their designed protracting them by a mischievous underhand-siding and supplying the publick Enemie, together with the many indignities, affronts, injuries, and intolerable provocations, both before and since your settling in a State of Freedom. That egregious attempt upon your Shipping, under pretence of a friendly salutation, consider'd in all its Circumstances, may serv in stead of all, it beeing indeed such a Barbarism, that the world cannot parallel, and none but themselvs would have acted; And therefore wee may the less wonder at their denying it when don, since the owning must have rendred them and their present enterprise detestable to the Nations. Nor is it any great marvel, that after the many matchless affronts given you, when your Honors out

of a Christian inclination to Peace, were pleased to over-pass them all, and in your Answer of the 25 of *June* to their Ambassadors, to declare notwithstanding, that, if you might have satisfaction for the Charges they put you to in that Summer's Preparations, and Securitie for time to com by both States contracting a firm Alliance, you were readie to set an end to the present differences (it is no marvel, I say, after so great condescension on your part) they should chuse War rather than Peace, since it now appear's they had War in their hearts from the very begining, and stood resolved to propagate their ambitious ends by waies of violence, and becom yet more unjust, rather than do any thing, though never so reasonable, that might seem to import an acknowledgment of their late injustice. And to the end that *England* may have a true taste of their intentions, it is well worthie consideration, that as they have refused to give any reasonable satisfaction or securitie, and with a brazen-front out-face the matter in their publick *Manifest*, declaring therein, *That they will never lay down arms so long as you steer the cours you are now in*; so by consequence

ſequence they ſeem reſolved never to admit Peace, but upon ſuch terms as are inconſiſtent with your Honor and Intereſt, and fix themſelvs (as long as they ſo continue) in an irreconcileable enmitie to the Good of our Nation. In Caſes of this nature, when Adverſaries place themſelvs at an unreaſonable diſtance, there is no ſecuritie for a State, but in a ſtrict Bent to its own Intereſt; nor any thing more dangerous than *Middle-Counſels*, while an Enemie ſtand's out upon extremities; And what greater extremitie than to invade a Neighbor's Territorie, and proſecute the Invaſion by a deſign of Conqueſt: The Sea is indeed your Territorie no leſs than the Land; It hath been held ſo by all Nations, as unqueſtionably ſubject, under every Alteration of Government, to them that have enjoied the Dominion by Land; ſo that the *Netherlanders* having enter'd your Seas, in defiance of your Power, are as abſolute Invaders, as if they had enter'd the Iſland it ſelf. It is juſt as if *Hannibal* were again in *Italy*, or *Charls Stuart* at *Worceſter*; and the late affront given near *Dover*, was like the one's braving it before the walls of *Rome*, and as if the other had com and knockt at the gates of *London*, or rather at your very Chamber-door; for,

that insolent Act was don in that place, which our Kings heretofore were wont to call and account their *Chamber*. How nearly these things touch the honor of your Selvs and the Nation; is well apprehended by your faithful friends, who have been very amply instructed and quickned by your publick *Declaration*: And it is their exceeding Joie, while they see you acting and engaging upon just and honorable Grounds, to make good that Right and Reputation which you have received as inviolable from our Ancestors. For, it hath been their great satisfaction to observ, with what excellent expresions you acquit your selvs, when, stating the case of this Quarrel, you make it known, *with what affection and constancie you have labor'd for the friendship of the United Provinces; how carefully you have avoided all differences, and occasions of a warr between the Nations; yet that all Overtures of Amitie and neerest Alliance have been rejected; and how that in stead of giving satisfaction for all the injuries they have don you, nothing would satisfie them, unless you should quietly and tamely have laid your selvs down at the feet of those who have thus endeavored to ruine you; or unless you should have betraied into those hands the Rights and Safe-*

tie of the People of this Nation: So that beeing compelled and necessitated into a most unwelcom war begun upon you; you resolv to use such waies and means, wherewith God shall inable you, to defend your selvs, and thereby to gain that just satisfaction and securitie, which cannot otherwise bee had. May you ever persist in this heroïck Resolution, as to do no wrong to any, so to defend your own Rights against all that shall dare to ravish them; May you alwaies have an ear open to receiv full Satisfaction and Securitie, when offer'd, and a heart nobly enkindled with a magnanimous indignation, to retort violence in the faces of bold Usurpers and Invaders. Had the *Netherlanders* been content to keep within their proper Bounds, it had been still our Interest (as of old) to have had Peace with them above other Nations; but since they break out like an Inundation, and with a drawn Sword declare prodigious Principles of Enmitie against the Rights and Liberties of *England*, it is presumed a thing unquestionable, that due Defences ought to be made, till they bee reduced within their antient Limits: For, if they should bee permitted in the least to Lord it at Sea; as they want not will and advantages, and have given you experience of their encroaching and ambitious temper, so it's to bee feared they would bee ever seeking opportunitie, to impose a Lord upon you by Land.

May you go on therefore (*Right honorable!*) as you have begun, and do, and the God of Heaven go along wth you, upon terms of honor & Justice, in such a way, that men may understand (as you will do no

wrong) at what rate they must offend you. Not onely our eies, but the eies of all the world, are fixt upon the carriage and conduct of this noble enterprise by Sea; when you have acquitted your selvs there, as no doubt you will do, having alreadie given the same demonstrations of wisdom and courage that you have don by Land, your Wars (through God's blessing) will at once bee ended; It will draw such a reverence & repute to your affairs, that men will beware how they provoke you, and your worst enemies despair of any future opportunitie. The late Engagements & Successes of your Fleets at Sea have shewn, that the great God hath owned you there; That hee hath not left you destitute of means; That the old *English* bloud & sens of honor, run's still in the veins of your Sea-men; and thereby given you to understand, that hee who hath appeared so gloriously for you, in the midst of wondrous difficulties, by Land, will also manifest his wonders in the Deep, to make a final Accomplishment of the good VVork by Sea; and beeing himself alone invested with the absolute Soveraigntie of Sea & Land, bee pleased to continue you and your Successors his Lievtenants in both, for the establishment of this Common-wealth, in a plenarie possession of its Rights and Liberties to all Posteritie. I am in my praiers and endeavors

(*RIGHT HONORABLE!*)

Your Honor's most humble, and

November 19. 1652. faithful Servant

Marchamont Nedham.

THE AUTHOR'S PREFACE.

Som things there are that I thought fit here to forewarn the Reader; part whereof may bee neceſſarie even for thoſe who are in other things very well inſtructed. The reſt likewiſe not unprofitable for them, who, while they ſalute Books by the way, are wont through a cuſtomarie vice of temeritie to ſtumble in the verie Threſhold. Thoſe things concern either the place of ſuch Teſtimonies, as are alleged; or ſom Circumſtances of the Sea-Dominion which is proved; or the Title of the Work. Among Teſtimonies, beſides ſuch as are in Print, and Manuſcripts reſerved in private men's Libraries, there are not a few

(*especially in the* second Book) *brought out of Records or publick Monuments, whose credit I suppose every indifferent Judg of matters will, as once the* [a] *Senate of* Rome *did, allow better than other Witnesses (at least if there bee any difference) and therefore full. Those which lie in private men's Libraries, you will finde where they are kept, in the Margin: If omitted there, they are in my own. But as to the Testimonies taken often out of publick Records, som likewise have the Place either of the Archive or* Rolls, *or the name of the Record-keeper's Office so noted in the Margin, that thereby you may know immediately where to finde them. But som of these Records (that are very frequently cited) have no place at all, nor any name of the Record-keeper expressed, but the King for the most part and the Year, besides the name of the Court-Roll, are only noted. As many as are of this kinde, do relate som to those years that pass betwixt the beginning of the reign of King* John *and the end of* Edward *the Fourth; others to those years that succeed down to our time. They which are of the former sort, having no place nor name of the Record-keeper noted, are kept in the Archive of the Tower of* London; *but those of the latter sort in the* Chappel of the Rolls.

[a] Marcellus, l. 9. ff. tit. *de Probationibus.*

It

It had been too ſlight a matter, to have ſignified thus much here to ſuch as are acquainted with our Engliſh Records; becauſ by the very name of the Court-Roll (as Rotulorum Patentium, Rotulorum Clauſorum, Rotulorum Parlamentariorum, Rotulorum Franciæ, Vaſconiæ, Alemanniæ, *and others of that kinde, which are Records belonging to the Engliſh Chancerie) and by the name of the King, the very place alſo of the Records is ſufficiently known. But it is neceſſarie to premiſe this in the firſt place, as well for the ſakes of my own Countrie-men who have been Strangers to the* Rolls, *as in the behalf of Foreiners, to the end that, if either of them perhaps have a minde exactly to conſult the Original of any teſtimonie thence alleged, they might, when the Places are ſo deſcribed, the more conveniently do it themſelvs at their own leaſure, if preſent, or, if abſent, obtein it by the aſſiſtance of friends. For, the Record-keepers (who have a ſpecial care to preſerv them ſafely) do uſually give admittance, at ſeaſonable hours, to all that pleaſ to conſult them, and have them ſo placed (as* [b] Ju-ſtinian *commanded concerning the Records of the Empire)* ὥστε ἢ ῥᾴδιον εὑρίσκεσθαι παρὰ τῶν ἐπιζητούντων, that they may eaſily bee found by them that ſearch.

[b] *Novel Conſtit. 15. cap. 3. § 2.*

As to what concern's the aforesaid circumstances of Sea-Dominion, whereas there are two Propositions here (so far as the term may bee born in things of a civil nature) made evident; The one, That the Sea, by the Law of Nature or Nations, is not common to allmen, but capable of private Dominion or proprietie as well as the Land; *The other,* That the King of *Great Britain* is Lord of the Sea flowing about, as an inseparable and perpetual Appendant of the British Empire; *it is not to bee conceived, that any other kinde either of Causes or Effects of Sea-Dominion are here admitted, than such as have been of the Dominion of an Island, Continent, Port, or any other Territorie whatsoëver or Province, which is wont to bee reckoned in the Royal Patrimonie of Princes. Nor that a less Dominion of the Sea than of the Land, is derived from the nature of the Law received among Nations about the acquiring of Dominion and of Justice it self, as from the Causes; nor that the Effects thereof are any other than what are variously subservient to Compacts, Agreements, Leagues and Treaties, Constitutions or Prescriptions of servitudes, and other things of that nature, in the same manner as the effects of Dominion*

by

by Land. And therefore [c] *hee said well of old,*

[c] Seneca in *Medeâ*, Act 2.

Nunc jam cessit Pontus, & Omnes
Patitur leges ;

The Sea's now made appropriate,
And yield's to all the Laws of state.

That is to say, all which are admitted in any other kinde of Territories, according to the difference of things, persons, times, and the Law of War and Peace. And so Valerius *to the Emperor* Tiberius, The consent of men and gods, *saith* [d] *hee,* would have the regiment of Sea and Land bee in thy power. *There are other Passages of the same kinde in antient Authors, whereby the Dominion of Land and Sea is so conjoined, that they would by no means have it divided in respect of each other, or that either the effects or causes of the Dominion of this should bee different from that of the other. But this, I suppose, is sufficiently manifest to the more intelligent sort of men, without any Advertisement ; though it bee necessarie for such as too rashly, without any regard*

[d] Prologo.

had to the interpoſition of Leagues and Treaties, Agreement, or Law, dare boldly affirm ſomtimes, that the cauſ of Sea-Dominion conſiſt's onely in the ſtrength of powerful Fleets, ſomtimes alſo of ſuch as belong to [e] *Pirates; but the effect in reſtraining all others ſimply and perpetually.*

[e] Videſis *Lud. Servin.* in placit. tom. 2. pag. 260.

But the Title of the Book need's a defence alſo among ſom, whoſe palate I hear it doth not pleaſ very well. They would not have, forſooth, the Mare Clauſum *here handled, as an aſſertion of the Dominion of the Sea, but to denote the time wherein the Seas were ſaid to bee ſhut or cloſed by the Antients, as not fit for Navigation. Every man know's, that from the third of the Ides of* [f] November *until the ſixt of the Ides of* March, *or betwixt ſom other* [g] *beginning and ending of ſuch a kinde of winter-ſeaſon, the Sea was, and was ſo called, heretofore* Clauſum **Shut**; *as the reſt of the time, or in the Summer-ſeaſon, it was called* Apertum **Open**, *that is to ſay, more apt and convenient for ſhipping. According to which ſenſ it was ſaid by* [h] Cicero, *while hee was in exſpectation of Letters from his brother* Quinctus; Adhuc Clauſum Mare ſcio fuiſſe, **I know the Sea hath been ſhut until now.** *So that in this ſenſ, the Sirnames both*

[f] Vegetius, de Re Militari, lib. 4. cap. 39.
[g] L. 3. C. tit. de naufragiis, & l. 3. tit eod. in Cod. Theodoſiano; Jul. Ferret. de R. Navali, lib. 11. § 2 & 3.
[h] Ad Quinctum Fratrem, lib. 2. Epiſt. 5.

both of Clusius *and* Patulcius, *might rightly enough have been given to* Neptune, *as well as* Janus. *But yet, though the Title had been taken from this Nation of the Seas beeing shut or closed, it would not truly have been so reproveable. For, seeing it is in the power of an Owner, so to use and enjoy his Own, that without som Compacts of Agreement, Covenants or som special Right supervening, hee may lawfully restrain any others whatsoëver, it cannot bee amiss for any one to say, that the Seas, which might pass into the Dominion of any person, are by the Law of Dominion shut to all others who are not Owners or that do not enjoy such a peculiar Right; in the same manner almost as that, whereby in that Winter-season they becom unnavigable by the Law of Nature, as saith* Vegetius. *But truly there is another and far clearer meaning of the Title. The simple sens of its terms doth denote, that the Sea is so shut up or separated and secluded for private Dominion, no otherwise than the Land or a Port, by bounds, limits, and other Notes and circumstances of private Dominion, and that by all kinde of Law, that without the consent of the Owner and those special restrictions & qualifications of Law, which variously intervene, vanish, and return,*

all others are excluded from a use of the same. For, most certain it is, that Claudere, **to shut** *doth not only denote the mere simple Act of shutting, as wee say* de Januis oculisve clausis **of gates or one's eies beeing shut,** clauso agmine, *or as it is in that of* [i] Lucan,

[i] Pharsal. 3.

Brachia nec licuit vasto jactare Profundo;
Sed *Clauso* periere Mari.——

(which is spoken of the Seamen's beeing cover'd with the keel of their ship turned upward) but also it very often signifie's that which is consequent either to a denial of the free use of the thing shut, as also the proprietie and Dominion of him that shut's it; So saith Venus *in* [k] Virgil *to* Jupiter;

[k] Æneid. 1.

Quid Troës potuere? quibus tot funera passis
Cunctus ob Italiam Terrarum *Clauditur* Orbis.

Clauditur Orbis, **the World shut**; *that is to say a free use of the world is forbidden them, or not permitted. And* [l] Propertius,

[l] Lib. 4. Eleg. 10.

Non *Clausisset* aquas ipsa Noverca suas.

Hee

Hee ſpeak's of the ſacred Fountains of Juno, *which were appropriate to the Female Sex as Owners, and ſo prohibited to* Hercules *and all Males whatſoëver. The Ambaſſador of the* Tencteri *ſpeak's to the ſame ſenſ alſo to the* Agrippinenſes *in*[m] Tacitus; VVee rejoice in your behalf, that at length yee ſhall bee free among them that are free. For, to this day, the *Romanes* had ſhut up the Rivers and Lands, and in a manner the very Aër, to hinder and reſtrain our Conferences and Meetings. *And in the ſame Author,* Cerialis *plead's to the* Treveri *and* Lingones. *Except* Tributes, *ſaith hee,* Other things remain in common, yee your ſelvs for the moſt part command our Legions; yee rule theſe and other Provinces. *Nihil ſeparatum Clauſúmve*, **Nothing is ſeparate or ſhut**. *Many other paſſages there are of that kinde.* Plinie *alſo ſaith of the Seas themſelvs*, [n] Interiora Maria Clauduntur ut portu, **the inner Seas are ſhut as in a Haven.** *And the ſame Author in* [o] *another, ſaith,* Mare Tyrrhenum à Lucrino molibus ſecluſum, **the Tyrrhen Sea was ſecluded or ſhut apart by Piles from the** Lucrine. *And* [p] *Tacitus*, tutum, ſecluſum Mare, **the Sea was ſafe, beeing ſecluded.** *That*

[m] Hiſtoriar. 4.

[n] Hiſt. Nat. lib. 2. cap. 9.

[o] Ibid. lib. 36. cap. 15.

[p] Hiſtor. 2.

Panegyriſt alſo to Conſtantius, *ſaith of the* Franks *that robbed heretofore in a Piratick manner, as well in the Mediterranean as the open Sea,* eventu temeritatis oſtenderant nihil eſſe Clauſum piraticæ diſperationi quo navigiis pateret acceſſus, **they made it appear by the event of their raſhneſs, that nothing could bee ſhut againſt the deſperation of Pirates, where there might bee an acceſs for Shipping.** *That is to ſay, the Sea was not ſo ſhut againſt Pirates by the* Roman *Emperor, but that they freely uſed depredation therein. In a word, that which is ſaid by* [1] *Ambroſe,* poſsidere fretum, & ſpatia Maris ſibi vendicare Jure Mancipii, **to poſſeſs a Narrow Sea and challenge ſpaces of the Sea by right of ſubjection,** *is the very ſame with that of* [2] Columella; Maria ipſa Neptunúmque claudere, **to ſhut the Seas themſelvs and** Neptune; *and ſo* Mare Clauſum *is the Sea poſſeſſed in a private manner, or ſo ſecluded both by Right and Occupation, that it ceaſeth to bee common; that is, being claimed by Right of ſubjection. Upon this ground it was, that thoſe Angles were called* Anguli Clauſares, *whereby the* * *Centuries in the Aſſignations of the*

[1] Hexaëmer. lib. 5. ca. 10.

[2] De Re Ruſticâ, lib. 8. cap. 16.

* A Centurie 200 Acres.

the antient Romans *did so touch one another, that it might bee known thereby, how far the right of the possession of particular persons did extend, as you may see in* [r] Hygenus. *Neither is it necessarie, that what may bee rightly said in this sens to bee shut, should bee shut or enclosed by som continued Fence, or by a continued Tract of som eminent Limit like a Mound: But any kinde of imaginarie Line, by streight Lines, crooked windings and Turnings and Angles, hath taken place in the designation of private Dominions, or in the shutting or incloſing of a thing possessed in a civil acception (as it was usual among the Antients in those Fields which were termed* Agri Occupatorii *and* Arcifinii) *as well as any eminent and continued Limit or Mound whatsoëver. From whence it came to pass, that in the Assignations of Colonies, they called those places* Clausa *and* Extraclusa *whose Limits were divided onely by such kinde of Lines.* [s] Julius Frontinus *saith;* ThatField my bee called *Ager extraclusus* which lie's within the bordering Line and the Centuries, and therefore *extraclusus,* becaus it is closed with the bordering line beyond the limits. *So the Territories,*

[r] Lib. de Limitibus Constituendis.

[s] Lib. de Limitibus Agrorum.

aſsigned as well in the Colonies at this day carried into America, *as in that prodigious gift of Pope* Alexander VI *in the former Age, which is bounded by an imaginarie Line from the* [u] *Artic to the Antarctic Pole, are cloſed by Lines of Longitude and Latitude drawn through the degrees of Heaven, that they may bee poſſeſſed in a private manner. So the Greek Sea, which is within the* Cyanean *and* Chelidonian *Iſlands, was by* [x] *Agreement ſhut and prohibited by the* Athenians *to the* Perſian *Emperor. So the Sea flowing about is ſhut or cloſed within the compaſs of the Royal Patrimonie of the* Britiſh *Empire. Other paſſages there are every where of the ſame kinde. But I enlarge my ſelf too much in a thing ſo manifeſt. Therefore I forbear to light a Candle to the Sun. Farewel Reader. From the* Inner Temple, IV *November* MDCXXXV.

u Laërtius Cherubinus, Bullar. tom. 1. pag. 393. Hieronym. de Monte Brixiano, lib. de finibus regundis, cap. 7. § 8.

x Plutarch. vitâ Cimonis.

The

The Contents of the first Book, according to the several Chapters.

CHAP. I.

THE Division *of the Work, and the* Method *of the first Book.* Pag. 1

CHAP. II.

What Occurrences seem to oppose the Dominion of the Sea, *and what Arguments are wont to bee made against it.* pag. 3

CHAP. III.

What is meant by the word SEA, *in the question. Also a division of the* Law, *in order to the Discourse.* pag. 11

CHAP. IV.

Of Dominion, *both* common *to all, and* Private. *Also its Original, either by* Distribution, *or* Primarie Occupation. pag. 16

CHAP. V.

The Effects of private Dominion. *And what regard hath been had of the* SEA, *in the more antient Distributions and Divisions of things.* pag. 24

CHAP. VI.

That the Law of God, *or the* Divine Oracles *of holy Scripture, do allow a private Dominion of the Sea. And that the wide Ocean also, which washeth the Western Coast of the holie Land, or at least a considerable part of it, was, according to the Opinion of such as were learned in the Jewish Law, annexed to the Land of Israël, by the Assignation or appointment of God himself.* pag. 27

CHAP. VII.

That the Natural-Permissive *Law (whereof any use may bee in this place) is to bee derived out of the* Customs and Constitutions *of the more civilized and more noble* Nations, *both antient and modern.* pag. 42

CHAP. VIII.

The manner, whereby the Law Permissive *touching private Dominion of the Sea, may bee drawn out of the Customs of many* Ages and Nations. *That there were Testimonies hereof manifest enough in the* Fabulous Age. *Also a word by the way, touching the* Mediterranean Sea, *in possession of the* Romanes, *when the* command *thereof was committed to* Cneius Pompeius. pag. 46

CHAP. IX.

The first Dominion of the Sea *among the* Greeks *in the* Historical Age; *that is, the Dominion of King* Minos, *or the* Cretan. pag. 53

CHAP. X.

That after Minos *of* Crete, seventeen Nations *of renown in the East, succeeding each other, did for very many years*

even

even without intermission enjoy a Dominion of the Syrian, Egyptian, Pamphylian, Lydian, *and* Ægean *Sea, no otherwise than of the Continent or Islands.* pag.56

CHAP. XI.

Touching the Sea-Dominions *of the* Lacedemonians *and* Athenians. *Moreover also, that it was acknowledged not onely by the* Greeks, *but also by the* Persians, *in a Treatie of Peace.* pag.65

CHAP. XII.

Other Testimonies, which are found scattered up and down, touching the Dominion of the Sea, in the Customs *of the* Eastern *Nations.* pag.69

CHAP. XIII.

Of the Spinetans, Tuscans, Carthaginians, *and other Lords of the Sea in the* West. pag.74

CHAP. XIV.

The Sea-Dominion, of the people of Rome, *and of such as followed their Customs in the* Eastern *Empire.* pag.77

CHAP. XV.

The Dominion of the Sea, as it belonged to private persons *under the* Roman *Empire, together with that* Sanction established in the Eastern Empire; *whereby the perpetual communitie of the Sea which was pretended to by som, beeing utterly abolished as a* thing unjust, *the Dominion even of* private persons *therein is asserted.* pag. 89

The Contents of the first Book.

Chap. XVI.

Touching the Dominion of the SEA, *according to the Customs of such Nations as are now in beeing. First of the* Adriatick Sea *belonging to the* Venetians; *the* * Ligustick *to the* Genoëses, *the* Tyrrhen *to the* Tuscans, *and lastly of the* Sea *belonging to the* Church, *or Pope of* Rome. pag. 99

* Mare Ligusticum *is now called* Mar Leone, *and* Mardi Genova.

Chap. XVII.

Concerning the received Customs of the Portugals *and* Spaniards, *about the Dominion of the Sea.* pag. 107

Chap. XVIII.

How far private Dominion over the Sea is admitted according to the Customs, or opinion of the French. pag. 111

Chap. XIX.

The private Dominion of the Sea, according to the received Customs of the Danes, *the people of* Norway, *the* Sweds, Polanders, *and* Turks. pag. 118

Chap. XX.

An Answer to the objection, concerning Freedom *of* Passage *to* Merchants, Strangers, *and* Sea-men. pag. 123

Chap. XXI.

An Answer to that Objection concerning the uncertain fluid nature of the Sea, *and its continual Alteration. It is proved, that Rivers also, and the* adjoining Aër (*which are more fluid and uncertain*) *may becom appropriate.* pag. 127

Chap.

The Contents of the first Book.

Chap. XXII.

An Answer to the Objections touching the defect of Bounds and Limits in the Sea; *as also concerning its* magnitude and inexhaustible abundance. pag. 135

Chap. XXIII.

An Answer to such Testimonies as have faln from Writers treating of other subjects, *and which are usually alleged against Dominion of the Sea.* pag. 145

Chap. XXIV.

An Answer to the Objections taken out of Antient Lawyers. pag. 150

Chap. XXV.

Touching the Emperor Antoninus *his Answer* that himself was Soveraign of the world, but the Law *(as 'tis commonly translated)* of the Sea; *in L. Deprecatio, ff. tit. de lege Rhodiâ.* The true meaning of *the said Answer, and* a new, *but* genuine Exposition *of it. Also, that it comprehend's nothing which may in any wise oppose a* Dominion of the Sea. pag. 157

Chap. XXVI.

An Answer to the Opinions of modern Lawyers, *so far as they oppose a* Dominion *of the Sea; especially of* Fernandus Vasquius, *and* Hugo Grotius. pag. 168

The Contents of the second BOOK.

CHAP. I.

THe order or Method *of those things that are to bee handled in this Book. The* British Ocean *divided into four parts.* pag. 181

CHAP. II.

That the antient Britains, *did enjoy and possess the* SEA *of the same name; especially the* Southern *and* Eastern *part of it, as Lords thereof, together with the Island,* before they were brought under the *Roman* power. p. 188

CHAP. III.

That the Britains *were Lords of the* Northern Sea, *before they were subdued by the* Romanes. *And that the Sea and the Land* made one entire Bodie *of the* British Empire. pag. 201

CHAP. IV.

That the Dominion of the British *Sea,* followed the Conquest of great Britain *it self, under the Emperors* Claudius *and* Domitian. pag. 205

CHAP. V.

Touching the Dominion of the Romanes *in the* British Sea, as an appendant of the Island, *from the time of* Domitian *to the Emperor* Constantius Chlorus, *or* Diocletian. pag. 211

CHAP.

CHAP. VI.

Touching the Dominion of the Southern *and* Eastern *Sea, as an* appendant of the British Empire, *from the time of* Constantine the Great till the *Romanes* quitted the Island. *That it was all under the Command of the* Count of the *Saxon* Shore throughout *Britain. Also concerning the* British Navie *under the* Romanes. pag. 217

CHAP. VII.

An Examination of the Opinion of som learned men, who would have the Saxon Shore, *from whence that* Count *or Commander of the Sea* throughout Britain *had his Title to bee the British Shore* on this side of the Sea; *which is plainly proved to bee falſ.* pag. 231

CHAP. VIII.

Som Evidences concerning the Soveraignty *and* inſeparable Dominion of the Iſle of *Britain* and the Sea belonging thereto, *out of* Claudian, *and certain* Coins *of the Emperor* Antoninus Pius. pag. 242

CHAP. IX.

Touching the Dominion of the British Sea, after that the Inhabitants *had freed themſelvs from the* Romane *power.* pag. 247

CHAP. X.

It is proved, both from the *very beginning of the Saxon's Reign, as* alſo *from their Forces and Victories by Sea,* that the *Engliſh-Saxons, and Danes,* who ruled the South-part of *Britain,* had Dominion over the Sea. pag. 251

CHAP. XI.

The Sea-Dominion of the *English-Saxons*, and *Danes*, during their Reigns in *Britain*, observed in like manner, from such *Tributes* and *Duties* of their *Fiduciarie Clients or Vassals, as concerned the maintenance of the Navie.* Also concerning the Tribute or Paiment called *Danegeld*, which was wont to bee levied for the Guard of the Sea. pag. 259

CHAP. XII.

The Testimonies of Edgar *and* Canutus, *Kings of* England, *with others, expressly declaring the* Dominion *which they and their predecessors had over the* Sea. *Together with an observation touching the Nations which in that Age were seated upon the* opposite Shore. pag. 273

CHAP. XIII.

Several Testimonies concerning the Sea-Dominion of the Kings of England, since the Norman Conquests, *set forth in* general heads. pag. 284

CHAP. XIV.

That the Kings of England since the coming in of the *Normans, have perpetually enjoied the Dominion of the Sea flowing about them, is in the first place proved from the* Guard *or* Government *thereof, as of a* Province *or* Territorie; *that is to say, from the verie Law of the* English Admiraltie. pag. 287

CHAP. XV.

The Dominion of the English Sea asserted from those Tributes *or* Customs *that were wont to bee imposed, paid, and demanded for the* Guard *or* Protection *thereof after the* Norman *Conquest.* pag. 295

CHAP.

The Contents of the second Book.

Chap. XVI.

Observations touching the Dominion of the Engliſh *and* Iriſh *Sea, from the* tenor and varietie *of thoſe* Letters Patents *or* Commiſsion Roial, *whereby the* Admirals of England *were wont to bee put in Autoritie.* pag.305

Chap. XVII.

It is proved by words plain enough in the form of the Commiſsions *for the Government or command of the high* Admiral of England, *from antient to the preſent time, that the Sea, for whoſe guard or defence, hee was appointed by the King of* England *as Lord and Soveraign, was ever bounded towards the South, by the ſhore of* Aquitain, Normandie, *and* Picardie. pag.312

Chap. XVIII.

Touching the Admirals *of the* Kingdom of France, *or thoſe* conſtituted upon the oppoſite Shore; *their* Original, nature, *and* varietie. *That the Sea it ſelf flowing between* Britain *and* France, is not conteined in that command of his, *as of one that is Governor of a* Territorie or Province; *nor is there any thing in it that may oppoſe the Dominion of the King of* England *by Sea.* pag.321.

Chap. XIX.

That in the Dominion of thoſe Iſlands lying before the ſhore of France, *which hath ever been enjoied by the Kings of* England, *it appear's that the poſſeſsion of the* Sea wherein they are ſituate, *is derived from their Predeceſſors.* pag.333

Chap. XX.

The Dominion and poſſeſsion of the Sea aſſerted on the behalf of the Kings of England, *from* that

leav of preter-Navigation *or passage* which hath been usually either granted by them to Foreiners or desired from them. pag.344

CHAP. XXI.

That Licence hath been usually granted *to Foreiners, by the Kings of England*, to fish *in the Sea*; *Also, that the* Protection *given to* Fisher-men *by them, as in their own Territorie, is an antient and manifest Evidence of their Dominion by Sea.* pag.355

CHAP. XXII.

The Dominion of England *made evident from the* Laws *and* Limits usually set *by our Kings in the Sea, to such* Foreiners as were at enmitie with each other, *but in amitie with the* English. *And concerning the King's* Closets *or* Chambers *in the Sea. Also touching that singular privelege of* perpetual truce *(or exemption from hostilitie)* in the Sea *about those Isles which lie before the shore of Normandie.* pag.363

CHAP. XXIII.

Certain publick Records, *wherein of old the Dominion of the Sea is*, by the way, *ascribed to the Kings of* England, *both by the* King himself, *and also by the* Estates of Parlament, *debating of other matters, and that in* expres words, *and* with verie great deliberation, *as a known and most undoubted Right.* pag.375

CHAP. XXIV.

Of divers Testimonies in our own Law-books, *and the* most received Customs, *whereby the Sea-Dominion of the King of* England, *is either* asserted *or* admitted. pag.382

CHAP.

The Contents of the second Book.

Chap. XXV.

Som antient Testimonies of less account, *touching the Sea-Dominion, whereof wee treat.* pag. 394

Chap. XXVI.

That the Sea-Dominion of the Kings of England *is acknowledged by* Foreiners, *whom it most concerns, by their* usual striking of Sails, *according to antient Custom. Also concerning two Edicts or Ordinances that were set forth about this thing, by the Kings of* France. pag. 398

Chap. XXVII.

A Recognition or Acknowledgment of the Sea-Dominion of the King of England, made by very many of the Neighbor-Nations round about, *in an* antient Libel publickly exhibited, *or in a Bill of Complaint instituted by them, together with the English,* against *Reyner Grimbald* Governor *of the French* Navie. *Also, touching a Recognition of this kinde implied in his defence.* pag. 403

Chap. XXVIII.

A Copie, *or* Transcript *of the* Libel *or* Bill *of* Complaint, *mentioned in the former Chapter.* pag. 415.

Chap. XXIX.

A Recognition *or acknowledgment of the Sea-Dominion of the Kings of* England, *made by the* Flemings *in an* Ambassy *to* Edward *the* Second. pag. 429

Chap. XXX.

Of the Dominion of the King of Great Britain *in the* Irish *and* Western *Sea, considered singly and apart by it self.* pag. 433.

The Contents of the second Book.

CHAP. XXXI.

Touching the Dominion of the King of Great Britain in the Scotish Sea, *especially toward the* East *and* North. pag. 443

CHAP. XXXII.

Touching that Right which belong's to the King of Great Britain, in the main and open Sea of the North. *And the Conclusion of the Work.* pag. 447

Amend the Errors thus.

Pag. 2. lin. 31. *read* Question. p. 15. l. 25. r. Hostages, blot out *Right*. p. 29. l. 2. also over all other. p. 33. l. 7. r. Thus it is. p. 38. l. 27. r. within the Creeks. p. 49. l. 31. r. that of *Neptune*. p. 53. l. 23. r. in any wise. p. 56. l. 6. r. or which. ibid. l. 14. r. translation. p. 61. l. 2. r. hereto. p. 64. l. 22. r. in the first. p. 70. 31. r. they required. p. 71. l. 9. r. *Antigonus* wittily replied, that hee himself: p. 74. l. 6. r. Counsel. p. 75. l. 21. r. first. ibid. l. 28. r. League that was. p. 79. l. 28. r. *Misenum*. p. 82. l. 5. r. account. ibid. l. 26. r. *Theodosius*. p. 87. l. 13. r. that it cannot. p. 94. l. 30. r. that servitude. p. 95. l. 14. r. that servitude was imposed. p. 95. l. 19. r. this servitude. p. 98. l. 2. r. Ells. p. 105. l. 12. r. of. p. 106. l. 10. r. or. p. 122. l. 25. r. places according. p. 129. l. 11. r. I run. p. 142. l. 32. r. might bee. p. 144. l. 11. r. *Alciatus*. p. 156. l. 1. r. contemporarie. p. 161. l. 19. r. were it (saith. p. 163. l. 9. r. cotton. p. 184. l. 12. r. Barangi. p. 189. l. 4. r. too much. p. 190. l. 23. r. Their. p. 192. l. 27. r. trimming. p. 203. l. 28. r. I am. p. 215. l. 4. r. thrive. p. 218. l. 30. r. throughout Britain. p. 221. l. 6. r. throughout Britain. p. 232. l. 17. r. at that time. p. 243. l. 31. r. or strand. p. 250. l. 28. r. Danemarc. p. 255. in the margine. r. Cottoniana. p. 281. l. 12. r. Achilles Tatius. p. 303. l. 29. r. entend. p. 305. l. 8. r. Office of our. p. 315. l. 25. r. *Guisnes*. p. 316. l. 20. r. *Guisnes* and *Ameni*. p. 317. l. 6. r. the opposite. p. 322. l. 31. r. piece-meale. p. 328. l. 24. r. Account. p. 333. l. 14. r. *Cæsarea*. p. 336. l. 2. r. so that it. ibid. l. 5. r. knew. ibid. l. 13. r. English by Norman. p. 339. l. 16. r. the Islanders. p. 384. l. 31. r. of a publick. p. 413. l. 1. r. was his Fiduciarie. p. 448. l. 11. r. Feroy.

OF

OF THE DOMINION, OR, Ownership of the Sea.

BOOK I.

The Division *of the Work, and the* Method *of the first Book.*

CHAP. I.

THE Design beeing to treat of the *Dominion* or *Ownership* of the *Sea*, incompassing the Isle of *Great Britain*, as belonging to the Empire of the same; two main particulars are chiefly to bee consider'd. The one concern's matter of *Law*, the other matter of *Fact*; both of them beeing denominated (as is usual) from the major part: For, as

the point of *Law* hath many things mingled with it, which manifestly arise from matter of *Fact*; so this of *Fact* comprehend's not a few which relate unto that of *Law*. As to what concern's the point of *Law*, this Question fall's chiefly under debate, to wit, *Whether by Law the Sea bee capable of private Dominion, or Proprietie?* And by matter of *Fact* is meant only such a collection of Testimonies, or clear shewing forth of Evidences by which may bee proved and mainteined, *The long and continual conjunction with the British Empire, of enjoiment and possession, or lawful prescription; whereupon as on a most strong Title, the Dominion or Ownership of the same Empire herein may bee founded*; it beeing first made manifest, that the Sea it self is not only not repugnant by any Law to Dominion or Ownership, but every way capable thereof. To each of these Particulars a several Book is allotted. In the first, is discussed matter of *Law*: In the second, that which concern's matter of *Fact*: For, except manifest proof bee made of the first point, it will bee utterly in vain to discours about the second. But for those things which are to bee handled in the first Book, it seemed meet to observ such a Method, as in the first place to lay open the Rise or Original ground of those Disputes that have occasioned this enquirie into the point of Law, together with the Opinions of those men, who denie that the Sea is capable of private Dominion or Ownership, or that it may pass into the Proprietie of any one particular, so as in the mean time to exclude it from beeing common to the rest of mankinde. Next are premised som things, for explaining the terms of the Questions, that it may bee clearly thence understood, as well what kinde of *Mediums* are to bee used, as what the Thing is, whereof wee intend to Treat; lest by neglect of such a Cours, wee

bee

bee perplex't with Doubts about the notion and acceptation, either of the Terms themſelvs, or of the Subject in Controverſie. After this preparation thus duly made, it is then demonſtrated, that not onely no kinde of Law whatſoêver, rightly underſtood, doth deny a Dominion over the Sea, but that all kinds of Law, even the moſt known and approved, whereof there may bee any uſe in Diſputes of this nature, do acknowledg and allow a proprietie and private Dominion over the Sea, as well as the Land. Laſtly, the Objections uſually brought againſt ſuch Dominion or Ownerſhip of the Sea, are cleared and anſwered; And with theſe wee ſhall now begin; for the Method of the ſecond Book is more conveniently put there before it.

What Occurrences ſeem to oppoſe the Dominion of Sea, *and what Arguments are wont to bee made againſt it.*

CHAP. II.

THe Arguments uſually brought againſt the Dominion of the Sea, are of three ſorts. *Som* are drawn from freedom of Commerce, Paſſage, and Travel; *Others* from the nature of the Sea; and a *third* ſort from the Writings and Teſtimonies of learned men. And as to what concern's the freedom of Commerce or Traffick, and Travel, this ſom men affirm to bee ſo natural, that they ſay it can no where bee aboliſhed by any Law or Cuſtom; yea, and that by the Law of Nations it is unjuſt to denie Merchants or Strangers the benefit of Port, Proviſions, Commerce, and Navigation; Adding moreover, that

wars have been justly commenced upon denial of Port, Trade, and Commerce; And for proof, they produce the example of the *Megarans* [a] against the *Athenians*, the *Bononians* [b] against the *Venetians*, and of the *Spaniard* against those of the *West Indies*; for that, the expedition of *Spain* against the *Americans* is pretended, by very learned men to bee upon a [c] just Ground, becaus they denied them a freedom of Commerce within their Shores and Ports. And in justification hereof, They use that of *Virgil*, as spoken out of the Law of Nations;

[a] *Thucidid. lib* 1. *& Diodor. Sic. lib.* 12.

[b] *Sigon. de Regno Italiæ, lib.*20.

[c] *Franciscus Victoria de Indis, tract.*2. §.2.3. *&* 4. *Joannes Solorzanos de Indiar. Jure lib.*2. *cap.*20. §.34. *& seqq. Gregor. Lopez in Partid.*2. *tit* 23. *l.*2.

Quod genus [d] *hoc hominum, quæve hunc tam barbara morem*
Permittit patria? hospitiis prohibemur Arenæ.

What barb'rous Land this custom own's? what sort
Of men are these? Wee are forbid their Port.

[d] *Æneid.*1.

Now, if such a Proprietie or Dominion of the Sea were admitted, that men might bee forbidden the libertie of Navigation and Ports, at the will of any Proprietor, then, say they, it would bee an infringement of that Law of Commerce and Travel (by them styled the Law of Nature) which they would not have to bee indured.

Touching the *second* sort of Objections drawn from the nature of the Sea it self, it is commonly alleged; That the Sea is alter'd and shifted every moment, and the state of it, through a continued Succession of new waters, alway so uncertain, and remain's so little the same in all things (the Channel onely excepted) that it is impossible it should ever bee retained in the possession of any one Particular. Moreover, they say the nature of Possession consist's chiefly in a separation or distinction of Limits and Bounds, but

no

no such Materials or Instruments can possibly bee found in the Sea, as that the Law for regulation of Bounds, which hath a principal place in all Controversies about Dominion or Ownership may bee grounded thereupon. They produce also a saying out of [c] St *Ambrose*, speaking about the lurking-holes or holds of Fishes; *Geometram audivimus, Thalassometram nunquam audivimus; & tamen Pisces mensuras suas nôrunt.* **I have heard of a** Geometrician, **or one that could measure Land; but never of a** Thalassometrician, **one that could measure or lay out Bounds in the Sea; and yet the Fishes know their own Bounds.** They are pleated likewise to insinuate, what a world of Sea room there is, that all Nations may have sufficient for watering, fishing, and Navigation: And therefore that the peculiar Dominion thereof is by no means to bee appropriated unto any.

[c] *Hexaëmer. lib. cap.* 10.

A *third* sort of Arguments lie's in those Testimonies that are drawn out of antient Writers; partly out of old Poëts, Divines, and others writing of other subjects; partly from such Lawyers as handle the matter purposely. Of the first kinde is that of *Gripus* the Fisherman, and *Trachalio* the Slave, as they are brought upon the Stage by *Plautus*, quarrelling about a Bag that was found in the Sea.

[a] Gr. *Mare quidem commune certò 'st omnibus.* Tr. *Assentio.*
Quî minùs hunc communem quæso mihi oportet esse vidulum?
In Mari inventum est. Commune est. ——

[a] *In Rudente, Act.* 4.

Gr. **The Sea is common certainly to all.**
Tr. **True.**
Why not this Bag to mee then too, thou brawler?
It was found within the Sea.
Therefore common it must bee.

They produce likewise a piece of a supplicatorie

ſpeech of *Latona*, to a ruſtick Rout in *Lycia*, as it in *Ovid*[b],

[b] *Metamor.* 6.

Quid prohibetis Aquas? uſus communis Aquarum eſt.
Nec Solem proprium Natura, nec Aëra fecit,
Nec tenues Undas. In publica munera veni.

——Why hinder you, ſaid ſhee,
The uſe of Water, that to all is free:
The Sun, Aër, Water, Nature did not frame
Peculiar; a publick Gift I claim.

[c] *Æneid.* 7. And that of *Virgil too*[c]

——*Littúſque rogamus*
Innocuum, & cunctis undámque, Aurámque patentem.

Nothing but what is common wee implore,
Free Aer, and Water, and a harmleſs ſhore.

[d] *Dipnoſoph.* 8. *Phœnicides* ſaith alſo in *Athenæus*[d], τὴν μὲν θάλασσαν κοινὴν εἶναι, *that the Sea is common.* To which may bee added that memorable ſaying of certain *Jewiſh Rabbins*, who, when they acknowledged *Alexander* to bee Lord of the whole world, did it nevertheleſs with this Caution, that they conceived hee had by his Conqueſts gained a Soveraigntie onely over the Earth or drie Land, but none at all over the Sea; it beeing ſubject onely to God himſelf, as its ſole Commander. The words are theſe out of the Ebrew, [e] *Non Dominabatur in Mari, ſed Deus O. M. Dominatur, tàm in Mari quàm in Tellure.* Hee ruled not over the Sea, but God Almightie is hee onely that rule's by Sea as well as by Land.

[e] *Gemara Hieroſolymit. tit. Abada Zara, ſeu de cultu extraneo. fol.* 42. *col.* 3. *cap.* 3.

The ſecond kinde of Arguments here, found among the Lawyers, are of two ſorts. *Naturali jure, omnium communia ſunt illa, Aër, Aqua profluens, & Mare, & per hoc littora Maris.* Item, *Nemo ad littus Maris accedere prohibetur*

hibetur piscandi caussâ, dum tamen villis & ædificiis & Monimentis abstineatur; quia non Juris Gentium, sicut & Mare. Idque Divus Pius piscatoribus Formianis & Capenatis rescripsit. **By the Law of Nature, the Aër, Rivers, the Sea, and it's Shores, are common to all. Also, None are prohibited to use fishing upon the Shores as long as they meddle not with Towns, Buildings and Monuments, in regard these are not common by the Law of Nations, as is the Sea; And this was prescribed by the Emperor** Antonius Pius, **to the Fisher men of Formiæ and Capena**; which are the very words used by [f] *Marcianus* the Lawyer, and by [g] *Justinian* in his Institutions. And *Ulpian*, [h] *Mari, quod Naturâ omnibus patet, servitus imponi privatâ lege non potest.* **The Sea, being by Nature free for all, cannot bee vassalised by any particular Law.** And in another place, saith hee; [i] *Mare commune omnium est & litora, sicut Aër. Et est sæpissime rescriptum, non posse quem piscari prohiberi.* **The Sea and Shores are common to all, as the Aër. And wee finde it very often prescribed or commanded by the Emperors, that none bee prohibited from Fishing:** With which agree's also that saying of [k] *Celsus. Maris esse usum communem omnibus hominibus ut Aëris.* **A freedom of the Sea, as well as of the Aër, is common to all men.** In like manner, Tom would have it that the *Romane Emperor* himself was Lord onely of the Land, and not of the Sea; for proof whereof, they mention an Answer given by the Emperor *Antoninus*; [l] *Se quidem mundi Dominum esse; legem autem Maris;* **That himself was Lord of the World, but the Law of the Sea**; pretending this Answer of his to bee commonly understood, as if hee refused to arrogate

[f] *L. 2. & l. 4. ff. de Rerum Divisione.*

[g] *Tit. eodem, § & quidem.*

[h] *L. 13. ff. tit. communia prædiorum.*

[i] *L. 13. § 7. ff. tit. Injuriis, & vide eum l. 24. ff. de damno infecto.*

[k] *L. 3. ff. Ne quid in publico § 1.*

[l] *D. D. ad lib. 9. ff. ad legem Rhodiam.*

rogate the Dominion of the Sea unto himself. And in the [m] *Basilica* or Laws of the Eastern Empire, wee finde it thus written, Οἱ αἰγιαλοὶ ἐν τῇ πάντων ἐξουσίᾳ εἰσί· *The Shores are within the power of all men.* So also saith *Michaël Attaliates*, a man learned in the Laws of that Empire, [n] Τινὰ ὴ πάντων ἐισίν· οἷς ὁ Ἀὴρ, τὸ ῥέον Ὕδωρ, ἡ Θάλασσα, ὁ αἰγιαλὸς τῆς θαλάσσης, καὶ οἱ Ποταμοί· *Som things are common to all, as Aër, Fountains, the Sea, Shores, and Rivers.* And the summe is, that som antient Lawyers of both Empires write, that the Sea is common to all men, by the Law of Nature and Nations; which if it were truly proved, either from the nature of the Sea it self, or from either of those Laws, then it could not possibly bee admitted, that the Sea might becom the peculiar possession of any one, unless a change were made of the Law of nature, which is commonly said to bee altogether unchangeable; or that the consent of Nations, that have interest herein, were obteined to admit of such a Dominion or Ownership. And therefore from thence they seem to hold, that a Dominion over the Sea cannot bee atteined by any antient usage, custom or prescription, nor under any other pretence or title whatsoêver, for (saie they) no Plea or Barr is to bee allowed against nature, Nor (as [o] *Papinian* saith) *is a Prescription of long possession wont to bee admitted for the holding of such places as are publick and common by the Law of Nations.* And these antient Lawyers here mentioned are followed by no small Train of Interpreters; though nevertheless there are not a few even of them, who restrain and qualifie that antient opinion more waies then one, touching the necessitie of a common Intercourse and freedom at Sea, as wee shall shew hereafter.

[m] *Eclog. Basilic. lib. 50. tit. 1. cap. 13.*

[n] *Pragmat. tit. 2.*

[o] *Neque præscriptio longæ possessionis ad obtinenda loca jure Gentium publica solet concedi. li. 45. tit. de usucapionibus & usurpationibus.*

But of our modern Lawyers, those that have appeared

ed moſt forward in oppoſing a Right of Dominion over the Sea, are onely two, both indeed very eminent men, but of unequal learning and elegancie of wit; by name *Fernandus Vaſquius* the Spaniard, and *Hugo Grotius* the Hollander: the former an honorable Counſellor to King *Philip* the 3. of *Spain* in his high Court of Exchequer. The later was heretofore Advocate Fiſcal of *Holland, Zeland*, and *Weſt-Frieſland*, and moſt deſervedly adorned with divers other honors in his own Countrie; a man of an acute judgment, and for his excellencie in all kinds of learning incomparable. But *Vaſquius*, in his diſcourſ both of the Law of Nature and Nations, as alſo concerning the Rights of Dominion, Preſcription, and other things of that nature, ſpeak's to this effect. [p] *From hence* (ſaith hee) *it appear's how little eſteem is to bee had of their opinion, who ſuppoſe that the* Genoëſes *or* Venetians *may without injurie, forbid others to ſail through the Gulph in their reſpective Seas, as if they could have laid claim to thoſe Seas by Preſcription; which is not onely contrarie to the Imperial Laws* (above mentioned) *but alſo againſt the Primitive Law of nature and nations, which cannot bee alter'd. And that it is againſt this Law, is evident; becauſ by the ſame Law not onely the Seas, but all other immovable things whatſoëver, were common. And although in after-time that Law came to bee aboliſh't in part, ſo far as concern's the Dominion and Proprietie of Lands, which beeing enjoied in common, according to the Law of nature, were afterwards diſtinguiſh't, divided, and ſo ſeparated from that common uſe; yet it hath been otherwiſe, and is ſtill, as to the Dominion of the Sea, which from the beginning of the world to this preſent daie, is, and ever hath been in common, without the leaſt alteration, as 'tis generally known. And though I hear many of the* Portugals *are of this opinion, that their King hath had ſuch an antient Title by Preſcription in that vaſt Ocean*

[p] *Fernandus Vaſq. Controverſ illuſtr: lib. 2. c. 89. §§ 0. Ex his apparet quàm ſuſpecta ſit &c.*

of the West-Indies, *so that other Nations have no right to sail through those Seas; and also that the ordinarie sort of our own Nation of* Spain *seem to bee of the same opinion, that no people whatsoëver, but Spaniards, have any right to sail through that immens and most spatious Sea, to those Indian Countries that have been subdued by the most mightie Kings of* Spain *(as if they onely had a right by Prescription thereto;) yet all these men's opinions are no less vain and foolish, then theirs, who use to dream the same things of the* Genoeses *and* Venetians. *The follie of which opinions appear's the more clearly even in this respect; becaus neither of those Nations singly consider'd can prescribe ought against themselvs; that is to saie, neither the Republick of* Venice *against it self; nor that of* Genoa *against it self, nor the Kingdom of* Spain *against it self, nor that of* Portugal *against it self; for there ought ever to bee a difference betwixt the* Agent *and* Patient: *Much less can they prescribe ought to the prejudice of other Nations, becaus the Law of Prescriptions is purely Civil. Therefore such a Law can bee of no force, in deciding Controversies that happen betwixt Princes or people that acknowledg no Superior: For the peculiar Civil Laws of every Countrie are of no more value, as to Forrain Countries and Nations, or their people, then if such a Law were not in Beeing, or never had been; ond therefore in Controversies of that nature recours must bee had unto the common Law of Nations Original or Secondarie; which Law certainly did never admit of such a Prescription or usurpation of Title over the Sea.* Other matters hee hath of the same kinde, beeing a very confident opposer of any peculiar Dominion over the Sea.

But in the year *MDCIX* (it beeing the year after that large Treatie held at the *Hage* betwixt the Spaniard and the Hollander, about freedom of Trade

Trade and Navigation to the *Eaſt-Indies*) there was publiſhed that Book of *Hugo Grotius*, entituled MARE LIBERUM, *or a diſcourſ concerning that Right which the Hollanders have to Trade in the* Indies. Wherein hee endeavor's firſt to prove, that, by the Law of Nations, there ought to bee ſuch a freedom of Navigation for all men whatſoëver, which waie they pleaſ, ſo that they cannot, without injurie, bee moleſted at Sea. Next, that the Atlantick and Southern Ocean, or the Right of Navigation to the *Indies*, is not, nor indeed can bee, any peculiar of the *Portugalls*: *foraſmuch as the Sea* (ſaith hee, according to the [q] Laws and reaſons already mentioned) *can in no wiſe becom the Proprietie of any one*; *becauſ nature not onely permit's, but require's it ſhould bee common.* Several other paſſages hee hath about this matter, in his excellent Book *De Jure Belli & pacis*; of which more hereafter. Thus much in brief, concerning thoſe arguments that are uſually brought againſt the Dominion or Ownerſhip of the Sea. The next thing therefore is to explain the ſenſ of the Queſtion, and its terms.

[q] *Mari Libero cap. 5. Mare proprium omnino alicujus fieri non poteſt; Quia natura commune hoc eſſe non permittit, ſed jubet.*

What is meant by the word SEA, *in the Queſtion. Alſo a diviſion of the* LAVV, *in order to the diſcourſ.*

CHAP. III.

AS to what concern's the preſent Queſtion; *Whether the Sea bee capable of private Dominion*, wee take the word CAPABLE in the ſame ſenſ, as it was uſed by the Emperor *Traian*

in an Epiſtle of his, to his beloved *Plinie*; [a] *Solum peregrinæ civitatis capax non eſſe dedicationis quæ fit jure noſtro*; **The ſoil of a ſtrange Citie is not capable of ſuch a dedication as is made by our Law** Moreover, wee ſhall explain what is meant by the SEA, as alſo by thoſe Terms of LAW and DOMINION. By the SEA wee underſtand the whole Sea, as well the main Ocean or Out-land Seas, as thoſe which are within-land, ſuch as the *Mediterranean*, *Adriatick*, *Ægean* or *Levant*, *Britiſh*, *and Baltick* Seas, or any other of that kinde, which differ no otherwiſe from the main, then as Homogeneous or Similary parts of the ſame bodie do from the whole. But the *Law* (as it is the rule, meaſure, and pointing out of things lawful or unlawful) fall's under a twofold conſideration. Either as it is *Obligatorie*, which is called alſo *Preceptive*; or as it is *Permiſsive*, which is alſo by writers commonly termed *Conceſsive*. As *Obligatorie*, it is known by ſuch things as are commanded or forbidden, as *to give every man his due*, *not to forſwear*, and the like. As *Permiſsive*, it is ſet forth by things whoſe uſe is neither commanded nor forbidden, but permitted; as in the very Act of buying, ſelling, infranchiſement, framing conditions of contract according to the will of the contractors, and many more of the ſame nature. But both theſe kinds of LAW concern either mankinde in general, that is, all Nations, or not all. That which relate's to the generalitie of mankinde, or *all Nations*, is either *Natural* or *Divine*. That is, either manifeſted by the light of nature or the uſe of right reaſon, beeing elegantly deſcribed by *Tertullian* to bee the [b] *Common Law written throughout the whole world, in the very Books of nature*

[a] *Plin. lib. 10. Epiſt. 59.*

[b] *Lex communis in publico mundi, & Tabulis naturalibus ſcripta. Lib. de Corona militis.*

ture; and by the Grecians called [c] *the Law of mankinde*, and by the Civilians the *Primitive Law of Nations*; or elſ it isſ declared and ſet down in thoſe Divine Oracles that have been committed to writing: Both which may properly bee termed the *univerſal Law of Nations*, or the *Common Law of mankinde*. And whatever is *Obligatorie* in either of theſe, either out of the nature of the thing it ſelf, or rather from the autoritie of the father of nature, is reputed by men to bee unchangable; according to that ſaying ſo often uſed by [d] Philoſophers, [e] Divines, and [f] Lawyers, *That the rights and Laws of nature are immutable*. Which cannot bee ſaid of the *Permiſsive* Law, whether Natural or Divine, relateing to mankinde in general: for it is obvious to every man, that as *Permiſsive*, it muſt needs bee various and changable, according to the judgment and pleaſure of perſons in power; and therefore ſubject to Repealings, Qualifications, and daily Alterations; whereas in the mean time that kinde which is *Obligatorie* may admit *Additions* or *Inlargements* (ſuch as may ſerv for more certaintie and convenience of obſervation,) but no *Alterations*, in any wiſe to diminiſh it's autoritie. Out of ſuch *Additions* as are made to that which is *Obligatorie*, and *Alterations* of that which is *Permiſsive*, another kinde of *Law* takes it's riſe, which is of a more narrow Senſ and Acceptation, and relate's, not to all Nations or the Univerſalitie of mankinde, but onely to ſom particulars thereof, and it is ordinarily well termed *Poſitive* (as beeing poſitively ordained either by God or men;) Somtimes alſo it is termed [g] *Civil*, and an Addition of right Reaſon. This *Poſitive Law* may bee divided into that which is ſingular and peculiar

[c] Κοιναὶ δὴ Ἀνθρώπων δίκαι. *Thucyd. l. 4. Polyb. l. 2. & alij.*

[d] *Andronic. Rhodius, Michaël Epheſius, Euſtratius, alii, ad Ariſt. Nicomach. 5. cap. 10. Cicero, apud Lactantium lib. 6. cap. 8.*

[e] *D. Thom. Aquin. 1. 2ᵉ. q. 94. art. 5. &c.*

[f] *Inſtit. de Jure Nat. §. ſed Naturalia.*

[g] *Philo Judeus, lib. de Joſeph ſeu de Viro Civili.*

culiar to any one particular Nation or Societie of mankinde (as was the [h] Law concerning Paternal power among the *Romans*, and the cuſtom of the [i] *Athenians* touching the ſame;) or into that *which is received by divers Nations*. Again this laſt is divided into two parts; either into that which *bind's divers Nations jointly, equally, and indifferently, by ſom common obligation*; or ell into that which *bind's divers Nations or people, not jointly, and equally, or by any common obligation, but ſingly and by Accident*. And of this threefold kinde of *Poſitive Law*, wee may call the firſt the *Law purely Civil*, as it relate's to any one particular civil ſocietie. The ſecond the *Common Law of divers Nations*, ſo named from ſom common tie or obligation betwixt them. The third the *Law of ſom* or *divers Nations*, *Civil* or *Domeſtick*, by reaſon of that Domeſtick and Civil tie onely, whereby they are bound ſingly among themſelvs, without any obligation to each other in common. As for example, the Laws of the XII Tables that were brought from *Athens* to *Rome*, remained in force in both Nations, as well in the *Romane*, as in the *Athenian*; but not by any common or mutual obligation between them: And therefore that Law of the XII Tables ought much more properly to bee called the Civil Law of thoſe Nations, then ſimply of both Nations (in any ſuch ſenſ as import's a Joint-Intereſt or Communion.) But as to that which jointly concern's divers Nations by mutual obligation, that is, *the Common Law of divers Nations*, it is diviſible likewiſe into two parts, to wit, into that which is *Imperative* over divers Nations or people; or that which is *Intervenient*. By the *Imperative Law of Nations*, is meant that which is obſerved or receiv's Autoritie among ſeveral Nations or people, who are ſubject to ſupreme

[h] *Inſtit. tit. de patriâ poteſtate. §. Jus autem.*
[i] *Demoſtthen. Orat. contra Ariſtocratem.*

ſupreme Powers that otherwiſe are diſtinct, and this by reaſon of an Obligation equally common to them all, but derived from ſom other, and enjoined by ſom ſpecial Command, either from God or man. Of this kinde was that Law of the *Dolopes*, the *Magneſians*, *Phthiotæ*, *Theſſalians*, and other people of Greece, who beeing equally obliged by the command of [k] *Acriſius* King of the *Argives*, ſubmitted to the juriſdiction of the grand Parlament or Aſſembly of *Amphictyones*. Of the ſame kinde likewiſe was that * Militarie Law enjoined by God, not onely to the People of *Iſraël*, but alſo to the *Canaanites* with whom they were to wage war: For, they were both obliged by the Autoritie of him that commanded, though after a divers manner. And when any Nations, in obedience to the *Pope's* Autoritie and command, do alike ſubmit to one and the ſame Law, it may bee rightly called the *Imperative* Law of Nations. But that is to bee called the *Intervenient* Law of Nations, which take's it's riſe, not from any command impoſed upon ſeveral Nations in common, but through the intervention either of ſom Compact, or Cuſtom; and it is commonly ſtyled the *Secondarie Law of Nations*: The principal heads whereof are conteined in the Laws about *proclaiming War*, *Ambaſſie*, *Priſoners of War*, *Hoſtages*, *Right*, *Remitter upon return from Captivitie*, *Leagues and Covenants*, *Commerce*, and other matters of that Nature which uſually intervene betwixt divers Nations. For, as much as in theſe Laws here ſpoken of, it is in ſeveral Nations wholly compoſed of ſuch *Additions* as have been made to the *univerſal Obligatorie Law of Nations*, and of ſuch *Alterations* as have accrued to the *Univerſal Permiſsive*, and no more may challenge the name of *Imperative* or *Intervenient*. And it is moſt plain, that the reſt

[k] *Pauſanias in Phocicis, Strabo lib. 9. Æſchines in Orat. περὶ παραπρεσβείας.*

* *Deut.* 20. 10.

reſt retain's ſtill the name of the *Univerſal or Primitive Law of Nations*. Moreover alſo, the *Imperial Law*, which uſually take's place in all Controverſies about the aforeſaid Particulars of the *Intervenient Law*, ſo far as it agree's with the Univerſal Law of Nations, Natural or Divine, is to bee compriſed under the ſame Notion; But as by the conſent of ſome certain Nations, with whom it is in uſe, divers principal heads and determinations of it (beeing no part of the *Univerſal Law*) are ſo made uſe of, it moſt clearly fall's under the name of the *Intervenient Law of ſom Nations*. Laſtly, as it is received and uſed at home by ſom particular People in their Courts of Judicature, it is to bee called the Law *Civil or Domeſtick of divers Nations*. And thus having given you a plain Scheme of the *Law*, in all thoſe various Notions and Acceptions that are to bee uſed in the Controverſie; it remain's that in the next place that of *Dominion* or *Ownerſhip* bee taken into conſideration.

Of *Dominion*, both *Common* to all; and *Private*. Alſo its Original, either by *Diſtribution*, or *Primarie Occupation*.

Chap. IV.

Dominion, which is a Right of Uſing, Enjoying, Alienating, and free Diſpoſing, is either Common to all men as Poſſeſſors without Diſtinction, or *Private* and peculiar onely to ſom; that is to ſay, diſtributed and ſet apart by any particular States, Princes, or perſons whatſoëver, in ſuch a manner that others are excluded, or at leaſt in ſom ſort barred from a Libertie of Uſe and Enjoiment. As to the firſt kinde of *Dominion*, or that which is Common to All, fre-

frequent mention is made of it, in relation to that State of Communitie, which was in antient times. And of which *Virgil* speak's in his Georgicks [a]

[a] *Georgic.*

Nec signare quidem, aut partiri limite Campum
Fas erat; in medio quærebant ——

Nor was it lawful then their Lands to bound;
They liv'd in common All upon the Ground.

And *Seneca* [b],

[b] *In Octaviâ, Act.* 2.

——— *pervium cunctis iter;*
Communis usus omnium rerum fuit.

All men might pass what way they pleas'd to chuse,
And all things were expos'd for common use.

And *Tibullus* [c],

[c] *Ad Messalam. Eleg. lib.* 1.3.

Non domus ulla fores habuit; non fixus in agris,
Qui regeret certis finibus arva, lapis.

Men did not then with doors their Houses build,
Nor were they wont with stones to bound the Field.

Many more there are of the like nature. But yet [d] *Lactantius* would have them to bee so understood, *not that wee should conceiv that nothing at all was private or peculiar in those daies; but in a figurative sens after the manner of the Poëts, to let us know that men were then so free and generous, that they did not hoord up the fruits of the Earth for themselvs, nor dwel in an obscure solitarie manner, but admitted the poor to partake of the benefit of their labors.* And truly, wee finde divers passages plainly pointing out this state of Communitie, in that Divine Act of Donation,

[d] *Divin. Institut. lib.* 5. *seu de Iustitiâ. cap.* 5.

whereby *Noah* and his three ſons *Shem*, *Cham* and *Japhet* (who repreſented as it were the perſon of *Adam*, for the reſtoring of mankinde after the flood) became Joint-Lords of the whole world. The form of Donation, is expreſſed in theſe words, [e] *Bee fruitful, and multiply and repleniſh the Earth. And the fear of you, and the dread of you ſhall bee upon every Beaſt of the Earth, and every Foul of the Aër, upon all that moveth upon the Earth, and upon all the Fiſhes of the Sea, into your hands are they delivered.* Alſo, *Juſtin* the Hiſtorian ſpeak's aptly and to the purpoſe, [f] *In the Age of Saturn* (ſaith hee) *all things were without diſtinction common to all, as if all men had lived upon one ſtock or Patrimonie.* From whence it came to paſs, that in the Feſtivals of *Saturn* all things were enjoyed in common. To which likewiſe accord's that of *Cicero* [g], *No thing is private or peculiar to any by Nature; but either by occupation of old, as in the caſe of thoſe who firſt inhabited Vacancies; or who became poſſeſs't by right of War and Conqueſt; or by virtue of ſom Law; or by Compact, Covenant, or by Lot:* Yet 'tis not probable, that this kinde of Communitie was of any long continuance. But as for *Private Dominion*, or that diſtribution of Poſſeſsions and Bounds which depriveth or in any ſort barreth all others, beſides the known poſſeſſor, from a libertie of uſe and enjoiment, they ſay it was not in beeing till thoſe golden daies were over. And ſo, as the Poët ſings [h],

[e] *Gen. cap. 9. v. 1. 2.*

[f] *Erant Saturni ævo omnia communia & indiviſa omnibus, veluti unum cunctis Patrimonium eſſet. lib. 43.*

[g] *Privata nulli naturâ; ſed aut veteri occupatione, ut qui quondam in vacua venerunt; aut bello, &c. Offic. lib. 1.*

[h] *Ovid, Metamorph. 1.*

Communémque priùs, ceu lumina ſolis & Auræ,
Cautus humum longo ſignavit limite Menſor;

The Earth, as common once as Light or Aër,
They then by Art did meaſure, bound and ſhare.

It appear's alſo by holy Writ, that the Earth was divided by the Poſteritie of *Noah*, ſom Ages after the Flood.

[i] By

[i] By *Japhet* and his ſons *were the Iſles of the Gentiles divided in their Lands, everie one after his Tongue, after their Families, in their Nations*; as it is recorded by *Moſes*: That is to ſay, they ſettled themſelvs as private Lords, and appointed Bounds accordings to the number of their Families, from the River *Tanais* even as far as the Atlantick Sea, or through a great part of the Weſtern *Aſia*, as it bend's towards the North, and throughout all Europe. In like manner, *Cham* and his Poſteritie poſſeſſed themſelvs of that Part which lie's open to the South and South-weſt; as *Shem* did the Eaſtern Countries as far as *India*: As you may ſee it in *Joſephus*, *Euſebius*, the Autor of the Chronicle of *Alexandria*, *Zonaras*, *Cedrenus*, *Euſtathius* of *Antioch*, *Freculphus*, and others. It hath been received alſo by Tradition, that *Noah* himſelf, as if hee had been abſolute Lord or Arbiter of the whole world, was the firſt man after the Flood that revived this kinde of diſtribution or private Dominion; which they ſay alſo hee did *by Command from God*, and that in the nine hundred and thirtieth year of his Age (which was three hundred and thirtie years after the Floud, and twentie before his death) hee confirmed it by Will, and deliver'd it a little before his death into the hands of *Shem* his eldeſt ſon, admoniſhing them altogether, *that no man ſhould invade the Bounds of his Brother, nor ſhould they wrong one another; becauſ it would of neceſsitie occaſion Diſcords and deadly Wars among them*: As it is expreſly mentioned, both in *Euſebius* and *Cedredrenus*. But howſoëver the matter hath been; this is very certain, that private Dominions or Poſſeſsions were revived again after the Flood, in the ſame accuſtomed manner as they had been before from the daies of *Adam*. For, hee alſo received ſuch a [k] Donation from God, as wee have told you *Noah* and his Sons did afterward,

[i] *Gen.* 10. 5. 5. & 25.

[k] *Gen. cap.* 1. 2, 28.

afterward, and ſo became Lord of the whole World, not without ſuch a peculiar poſſeſsion or proprietie to himſelf, which (ſo far as wee are are able to judg of Affairs of that Age, according to the waies and means received by Poſteritie) did exclude his children from all Right, but by his voluntarie Grant or Reſignation: But yet, whether it were by Donation, Aſsignment, or any other Grant whatſoêver, it appear's (before hee died or left any Heir to ſucceed him) his children did enjoy their ſeveral Bounds and Territories, in a way of peculiar Dominion or Poſſeſsion. Thus *Abel* had Cattel and Paſtures of his own; as *Cain* had Lands and Plantations that were his own. Hee poſſeſſed himſelf alſo of the Land of *Nod* or *Naida*, where hee built the Citie of *Enoch*, and ſettled his abode. After this, [l] Exchanges, Buying, and ſelling came in faſhion; and beſides Weights and Meaſures, they appointed Judges of Covenants and Contracts, and added Bounds or Limits to Fields and Paſtures. And of *Cain*, it is ſaid, that [m] *hee firſt ſet Bounds unto Fields*. So at length came in private Dominions or Poſſeſsions; which (whether by virtue onely of a preceding univerſal dominion of a ſingle perſon, as in *Adam*; or of ſom univerſal and common intereſt in Things, as betwixt *Noah* and his Sons) hapned firſt by the Donation, Aſsignment, or ſom other Grant of thoſe whom it concerned, either to Princes, or Communities repreſenting a ſingle perſon, or to any others whomſoêver, as particular Lords. So that neither the Law Natural nor Divine which was univerſal (except you pleaſ to credit that Divine Oracle ſaid to bee given unto *Noah*) hath expreſly commanded or forbidden, but permitted both; that is to ſay, a common enjoiment, as well as a private dominion or poſſeſsion of the Things of this life.

[l] *Joſeph Orig. Judaïc. lib.* 1. *c.* 3. *Euſtath. Antioch. Hexaëm. pag.* 46.

[m] Ὅρους γῆς πρῶτος ἔθετο.

But

But in this diviſion of Bounds and Territories, there intervened, as it were, a conſent of the whole bodie or univerſalitie of mankinde (by the mediation of ſomthing like a compact, which might binde their poſteritie) for quitting of the common intereſt or antient right in thoſe things that were made over thus by diſtribution to particular Proprietors; in the ſame manner as when Partners or Co-heirs do ſhare between themſelvs any portions of thoſe things which they hold in common. But as for the reſt, which neither are poſſeſſed in ſeveral, nor expreſsly held in common, that is, which have continued vacant or deſert, what ſhall wee ſaie? It hath been truly a cuſtom of old, and which hold's to this daie in the more eminent Nations, that Vacancies are his who apprehend's them firſt by occupation; as wee uſe to ſaie of thoſe wee call, *no man's Goods.* This appear's plain in the Imperial Law; nor do wee know of any Nation where it is not received, ſave in thoſe where by the * *Civil Law of ſom Nations*, any things of this nature are appropriated to their Princes, that their Subjects gain not an intereſt by occupation: For there others have ſufficiently diſclaimed the acquiring of any title by occupation; and in the preſent caſe wee muſt ever have reſpect unto this Qualification. But as concerning ſuch a right by occupation, there is an antient and very famous deciſion made in a Controverſie that happened betwixt the people of *Andria* and *Chalcidia.* Both of them beeing upon an expedition againſt *Thrace*, for the finding out of [n] new habitations, news was brought that the Barbarous people had quitted the Town of *Acanthus*, hereupon, two men were choſen, and ſent out as Spies, the one beeing of *Andria*, the other of *Chalcidia*, who beeing informed of the enemies flight, began both to run, and ſtrive

* *Municipal.*

[n] *Plutarch in Quæſt. Græc.*

which of them ſhould firſt reach and take poſſeſsion of the Citie thus forſaken. It happened that hee of *Chalcidia* out-ran, but the man of *Andria* darting a Javelin ſtuck it in the Gates: This cried out hee got thither firſt with his Javelin, but the other, that hee was firſt with his bodie. A controverſie hapning hereupon, the *Erythræans*, *Samians*, and *Parians*, are called to decide it. The *Andrians* had moſt voices; for the *Samians* and *Erythræans* gave judgment for them. But the *Parians* were for the men of *Chalcidia*. The Reaſons alleged on both ſides are very well deſcribed by [o] *Petrus Ærodius*, not fit here to bee repeated: But in the mean time it is manifeſt, that all thoſe men, even the perſons contending, as well as the Nations to whoſe determination the matter was committed, were of opinion, that places abandoned and forſaken becom theirs who firſt acquire them by occupation; nor is there any other ground in reaſon for that Law or Cuſtom, whereby wilde-Beaſts, Fiſhes, Birds and the like, whether yet unpoſſeſs't or relinquiſht, becom theirs who catch them: which is uſual likewiſe, according to the Laws and Cuſtoms of the [p] *Hebrews* and [q] *Mahometans*, as well as the *Chriſtians*. But now, if ſo bee that all men were indifferently and without diſtinction Lords of the whole, before a diviſion was made of ſom parts, then of neceſsitie wee muſt conceiv, they all ought to remain, equally and without diſtinction, Lords of thoſe parts which never came under a diviſion, even as they were before; unleſs ſom Compact or Covenant intervene, whereby all kinde of antient Right or Title of common Intereſt ſhall bee ſo renounced, that any perſons whatſoever might afterwards becom particular maſters of thoſe places which ſhould remain vacant or undiſpoſed, who ſhould firſt corporally ſeiz them, with

[o] *Rerum judicatarum, lib. 5. tit. 21.*

[p] *Miſna & Gemara utraque tit. Baba metzia cap. 1. & Maimonides tit. Zachia Wemithna cap. 1.*

[q] *Alcoran. Azoar. 12. de venatu; & Azoari 34.*

with an intent of poſſeſsing, holding, uſing, and injoying. Nor can it otherwiſe bee conceived in the caſe of Partners or Co-heirs (ſuch as all men ſeem to have been in the State of Communitie) how thoſe things which com not under diviſion, ſhould not continue common, as before. Therefore (I ſuppoſe) it muſt bee yielded, that ſom ſuch Compact or Covenant was paſſed in the very firſt beginnings of private Dominion or poſſeſsion, and that it was in full force and virtue tranſmitted to poſteritie by the Fathers, who had the power of diſtributing poſſeſsions after the flood. So that wee may conclude no leſs concerning diſtribution by Aſsignment, then touching Seiſure by occupation of things relinquiſh't at pleaſure, that a general compact or Agreement was made or ratified, either expreſsly in words, or implicitly by cuſtom. And truly, the ſelf ſame thing ſeem's to bee the opinion of the moſt excellent *Hugo Grotius* [r], who ſpeaking of the original of Proprietie ſaith, *Things became appropriate, not by the bare Act or Intent of the minde (for ſom could not know what others deſired to poſſeſs, ſo as to abſtein from the ſame; and perhaps many might deſire one and the ſame thing) but by ſom Compact and Agreement either expreſs, as in the caſe of Diviſion; or Tacit, as in that of Seiſure or Primarie occupation. For as ſoon as men grew out of love with Communitie, and no Diviſion was yet appointed, wee muſt conceiv they agreed all together, that what every man held, hee ſhould poſſeſs as his own.* And truly there is a paritie of Reaſon alſo for this; that any man might afterwards make Seizure of that which was left.

[r] *De Jure Belli ac pacis lib. 2. cap. 2. §. 2.*

The

The effects of private Dominion. *And what regard hath been had of the* SEA, *in the more antient Distributions and Divisions of things.*

Chap. V.

BY the introducing of *private Dominion*, in the aforesaid manner, it came to pass, that the same Territorie or Field, whose use before was free for all men alike in Tillage, Building, Pasturage cutting of wood, gathering of Fruits, egress and regress, was either by distribution or occupation so peculiarly appropriated unto the possessor, that hee might lawfully hinder such a Communitie of use and injoyment, nor might any other man use it lawfully without his permission. And from this Original sprang every Dominion or Proprietie of things, which either by Alienation, or any other kinde of Cession, is transferr'd upon others, or held by a continued possession; respect beeing alwaies had to those particular Forms and Qualifications, which usually relate unto Dominion, either by Law, Custom, or compact; according to the various Institutions of several people: For by these, the free and absolute power of the Proprietor, in what hee enjoie's, is lessned and restrained; but when this Reason wholy ceaseth, then what the Proprietor possesseth is so his own, that it cannot lawfully in any wise, without his consent, becom another man's. And all these things are derived from the alteration of that *Universal* or *Natural Law of nations* which is *Permissive*: For thence came in private Dominion or Possession, to wit from the *Positive Law*.

But

But in the mean while it is eſtabliſhed by the *Univerſal Obligatorie Law*, which provide's for the due obſervation of Compacts and Covenants.

Theſe things beeing thus premiſed, wee ſhall next ſee what reſpect hath been had unto the Sea, either in the very firſt or any more antient Diſtribution or Diviſion of things. For if it appear that the Sea alſo hath been aſsigned over with Lands, it muſt certainly bee confeſſed, that from the ſame original there ſpring's a private Dominion of the Sea, as well as the Land, and ſo that it is equally capable of the ſame, with this. And truly, in the diſtribution of Land which was renewed after the flood (ſo far as wee are able to collect by Tradition from the Antients) wee finde no expreſs mention made of any Sea, as a part aſsigned: But yet ſomtimes the Sea is added as a Bound to a part aſsigned. As where the part firſt aſsigned unto the Sons of *Cham*, is extended from the Borders of *Egypt* through *Africa* as far as *Hercules*'s Pillars, or [a] *unto the Weſtern and African Sea.* And the Portion of the *Canaanits* (ſituate within the Territorie of the Sons of *Cham*) is twice ſo deſcribed in the *Samaritan Pentateuch*, that it is expreſsly ſaid to reach from the River of *Egypt* or *Nilus*, to the great River, that is, the River *Euphrates*, *and* [b] *unto the utmoſt Sea*, or the *remoteſt*, which is the great or Weſtern Sea. Which laſt words are uſed in the laying out of that Portion which the Sacred Scripture mention's in *Deuteronomie.* Somtimes alſo, ſom Seas may ſeem to bee ſo comprehended in the part aſsigned, that they appear to bee no leſs aſsigned then the Land. For unto the Sons of *Japhet* were aſsigned [c] *thoſe Countries which extend from* Media *towards the North and the Weſt, as far as* Cadiz *and the Iſlands of Britain.*

[a] *African. apud Euſeb. in Chronic. pag.* 10. *Cedrenus pag.* 10.

[b] *Pentateuch. Samar. Mr. Geneſ.* 10. 19. *& Deuter.* 34. 2.

[c] *Euſeb. & Cedrenus locis citatis.*

Wee ſee alſo, that certain Seas are included with in the compaſs of Aſsignment as the * *Ægean, Mediterranean, Adriatick*, and *Britiſh* Seas: whether by Donation, or not, wee cannot ſay. But in that antient apportioning of the holy Land (whereof God himſelf was Autor) the Sea ſeem's rather to have been accounted a boundarie, then any part of the Territorie allotted. Concerning the South-Quarter, the words are theſe; [d] *The Bounds of it ſhall bee the outmoſt Coaſt of the ſalt Sea Eaſtward.* And a little after; *The Border ſhall fetch a Compaſs from Azmon unto the River of Egypt, and the goings out of it ſhall bee at the Sea.* Alſo concerning the Weſt-Quarter, *its Border ſhall begin at Sea, & ipſo fine claudetur,* **and by it it ſhall bee bounded**, as it is in the vulgar Tranſlation; to which ſenſ agreeth alſo the modern: But concerning this place, and the reſt here quoted, wee ſhall ſpeak more in the next Chapter. Then it follow's, according to the true ſenſ of the Hebrew, *And this ſhall bee your North-border: From the great Sea you ſhall point out for you Mount Hor.* And a little farther, ſpeaking of the Eaſt-Quarter; *Its Border ſhall deſcend, and ſhall reach unto the ſide of the Sea of Chinnereth Eaſtward*; *And the Border ſhall go down again to Jordan, and the goings out of it ſhall bee at the ſalt Sea: This ſhall bee your Land with the Coaſts thereof round about.* Which is repeated almoſt word for word, in the diſtribution that was made by [e] *Joſhua*: And in another place of holy Scripture, the bounds of the Dominion is ſaid to bee [f] *from Sea to Sea*. But, ſuppoſe at laſt it were granted, that the Seas came not into thoſe more antient diſtributions of Territories, then it remain's next to bee conſider'd, whether they might not lawfully bee acquired afterwards by Title of occupation, as things vacant and derelict; that is, either by the *Natural* or *Divine univerſal Law* which is *Permiſsive*, or by the *Law*

* *Now called the* Levant.

d *Num.* 34. 3,5,6,7,12.

e *Joſh.* c. 15. *&c.*

f *Pſal.* 72. 8. *Syracid.* c. 44.

of

of divers Nations, Common or *Civil*, which, in judging matters of this nature, is the beſt Interpreter of the *natural Law* which is *Permiſsive*. For, if in the *Permiſsive* which is *Univerſal*, nothing bee repugnant thereto; or (which is in a manner all one) if by the *Poſitive Law of Nations*, ſuch a Dominion of the Sea, as wee intend, hath been introduced and admitted by the conſent of the more famous Ages and Nations; then (I ſuppoſe) it will not bee doubted, but that the Seas are, by all manner of Law, every way capable of private Dominion, as is the Land.

That the Law of God, *or the* Divine Oracles *of holy Scripture, do allow a private Dominion of the Sea. And that the wide Ocean alſo, which waſheth the Weſtern Coaſt of the holy Land, or at leaſt a conſiderable part of it, was, according to the Opinion of ſuch as were learned in the Jewiſh Law, annexed to the Land of Iſraël, by the Aſſignation or appointment of God himſelf.*

CHAP. VI.

AS to what concern's here the Law of God, wee finde very plain paſſages therein, which do not a little favor a Dominion of the Sea. In that firſt and moſt antient Donation of things after the Flood, whereby God inveſted *Noah* and his Poſteritie, in the Dominion of the whole Earth (of which Globe the Seas themſelvs are a part) and of the conterminous Aër, ſeem's to bee no otherwiſe granted, then as mention is

made of the living Creatures, the Earth, and the Fowls of the Aër. That is, by an expreſs grant of the free uſe and benefit of the thing, the thing it ſelf was granted or conferred. Nor is the Dominion of the Sea otherwiſe granted there, where it is ſaid, [a] *The fear of you, and the dread of you* (which are Tearms ſignifying Dominion) *ſhall bee alſo all the Fiſhes of the Sea. Little different from this is that which was ſpoken to our firſt Parents,* [b] *Repleniſh the Earth and ſubdue it, and have Dominion over the Fiſh of the Sea, and over the Fowl of the Aër, and over everie living thing that moveth upon the Earth:* So here alſo, the grant of the thing it ſelf is ſignified by its uſe and enjoiment. 'Tis confeſs't, that theſe words were not meant of private Dominion, or that which was not common to all men: But yet it appear's thereby, the Earth and Sea did ſo paſs together at firſt, and after the ſame manner, into the common enjoiment of mankinde, that from this Donation or Grant of God, wee may well conclude; that their condition, as beeing both but one Globe, muſt needs bee alike, at the pleaſure of men, in the future diſtribution of Things, or the introducing of private Dominion therein. Neither is the Proprietie, nor the Communitie of either appointed but both ſeem equally permitted by the very form of Donation. And therefore that is very vain which is objected by ſom [c], *That the Earth is given to the children of men, but that* [d] *the Sea belong's onely to God himſelf*; as if Dominion not common indeed, but onely a common uſe of the Sea, were permitted by the words of holy Scripture: And as if it were not ſaid in like manner, [e] *The Earth is the Lord's, and fulneſs thereof: The tops of the Hills are his alſo.* Who know's not, that ſuch ſayings as theſe cannot in any wiſe weaken the Dominion of Mankinde? For, whatſoëver is acquired by men, ſtill

[a] *Gen.* 9. 2.

[b] *Gen.* 1. 28.

[c] *Pſal.* 115. 16.

[d] *Pſal.* 95. 5.

[e] *Pſal.* 24. 1. 50. 12. 89, 11. 95, 4.

God

God Almightie, as Father of the Univerſ, retein's his ſupreme Dominion both over men, as alſo all other Things; which never was denied yet by any ſober man. But the Controverſie is about the Dominion of man, to wit, that which comprehend's any enjoiment or proprietie whatſoëver, ſaving ſtill that right of the Dominion of God, which cannot bee diminiſhed. And the diſtinction about this matter is very ordinarie in the Schools: According to the firſt ſort of Dominion, nothing whatſoëver, much leſs may the Sea belong unto men: According to the ſecond, all things indeed are or may bee theirs, which can bee apprehended, ſeized, and poſſeſſed. Add moreover, that in the old Teſtament expreſs mention is made more then once of ſuch a Seiſure, poſſeſſion, or private Dominion as this whereof wee Treat; and that as of a Thing lawfully brought in uſe. There wee finde that the men of *Tyrë* were Lords and Maſters of the *Phænician*, and the *Egyptians* of the *Alexandrian* Sea. Concerning the *Phænician*, ſaith the Prophet unto *Tyrus*; [f] *All the Princes of the Sea ſhall com down from their Thrones, &c. And they ſhall take up a lamentation for thee, and ſay to thee, how art thou deſtroyed that waſt inhabited of Seafaring men! the renowned Citie, which waſt ſtrong in the Sea!* Here the Dominion of the *Tyrians* at Sea is plainly ſet forth. And in the following Chapter [g], *Thy Borders are in the midſt or heart of the Sea*; as wee read it in the Hebrew, and alſo in an [h] *Arabian Manuſcript*, which render's it to the ſame purpoſe: For, both the *Greek* and *vulgar Tranſlation* differ there from the Original. It follow's alſo thus; [i] *All the Ships of the Sea with their Mariners were thine to occupie thy Merchandize.* In ſtead of which laſt words, theſe are put in the *Greek* Copies, ἐπὶ δυσμὰς δυσμῶν, *even Weſtward of the Weſt*, or through a great part of the main or Weſtern Sea; that

[f] *Ezech.c.26. v.16.*

[g] *Cap.27.4.*

[h] *In Bibliocâ Arundeliânâ.*

[i] *Verſ.9.*

is, the *Phœnician* or *Syrian*. Again, [k] *Becauſ thine heart is lifted up, and thou haſt ſaid, I am a God, I ſit in the ſeat of God, in the mid'ſt of the Sea.* Hee threaten's not the *Tyrian*, becauſ hee had gotten him a Dominion over the neighboring Sea, but becauſ beeing lifted up with pride, hee had taken unto himſelf the name of God. The *Tyrian* is called likewiſe in another Scripture the [l] *Sea it ſelf, and the ſtrength of the Sea.* But concerning the *Egyptian* Sea, another Prophet ſpeak's thus unto *Ninive*; *Art thou better then populous Alexandria* (in the Original the Citie is called *No*, taken here for *Alexandria*) *which is ſituate among the Rivers, that hath the waters round about it, whoſe Riches and ſtrength* (as it is in the *Hebrew*) or (as the *Greek* render's it) Ἀρχὴ, that is, *whoſe Empire* or *Dominion is the Sea.* Moreover, it ſeem's to make mention of Kings of the Sea, as well as of Iſlands; [m] *The Kings of Tarſhiſh and of the Iſles ſhall bring preſents.* For, *Tarſhiſh* or *Tharſis* in Hebrew ſignifieth the Sea, [n] as it is often confeſſed both by the Greek and Chaldee Interpreters. Although *Munſter*, a man otherwiſe very learned, ſpeak's unadviſedly upon the fore-mention'd place, and will not have *Tharſis* there to ſignifie the Sea, *becauſ* (ſaith hee) *Kings have nothing to do at Sea, but rule onely upon Land*; forgetting (what wee have alreadie told you) that expreſs mention is made by *Ezechiel* concerning *Princes of the Sea.* With which agree's alſo that ſaying, [o] *I will ſet his hand in the Sea, and his right hand in the Flouds*; upon which place *Aben Ezra* note's, that God Almightie aſsigned the Dominion of the Sea there unto King *David, That hee might rule over thoſe that ſailed either through the Sea or the Rivers.* It is written thus likewiſe in the Apocrypha; [p] *O yee men, do not men excel in ſtrength that bear rule over Sea and Land, and all things in them? But yet the King is more mightie; for, hee is Lord of all theſe things and*

[k] *Cap. 28. verſ. 2.*

[l] *Iſai. 23. 4.*

[m] *Pſ. 72. 10.*

[n] *Hieronym. ad Iſaiæ c. 2.*

[o] *Pſ. 89. 25.*

[p] *Eſdras, l. 1. chap. 4.*

and hath Dominion over them. And in another place, saith the Angel to Esdras, [q] *The Sea is set in a wide place, that it might bee deep and great. But put case the entrance were narrow, and like a River, who then could enter the Sea, to look upon it, and have Dominion over it, if hee went not through the narrow?* The Dominion of the Sea and of the Land is granted alike in both these places. It is said also of King *Ahasuerus*; [r] *That hee made not onely the Land, but all the Isles of the Sea to becom tributarie,* which words truly do clearly shew a Dominion of the Sea; for, so they are expressed in the vulgar Edition, out of the Hebrew Original, which is lost. But the Greek Copies are more plain there; [s] *The King wrote to his Kingdom of the Land and Sea.* Nor must wee omit that of *Moses* when hee blessed the people; [t] *And of Naphtali hee said, Naphtali shall enjoy abundance, and bee full with the blessings of the Lord; hee shall possess* or *inherit the Sea and the South*; as the *vulgar* and the *Greek* do render that place. But by many others, the Sea is taken there for the West-Quarter, as it is often in the Scriptures. Yet truly, it is clear those words are meant of the Sea of *Galilee*, or of the Lake of *Tiberias*, not of the great or *Phœnician* Sea, which lie's Westward, becaus the Land of *Naphtali* was situate near that Lake, which also is often called the Sea. As it appear's likewise out of *Onkelus* his Paraphrase, where express mention is made of the Sea of *Genesareth*, called also the Lake of *Tiberias*, or the Sea of Chinnereth, and by this name it passeth with the salt Sea, or the Lake of *Asphaltites*, in the [u] sacred description of the Eastern part of the holy Land. But the former place of *Deuteronomie* is erroneously rendred by *Rupert* the Abbot of *Tuitium*; [x] *Mane & Meridiem possidebit*, for *Mare & Meridiem*, **hee shall possess the Morning and the South,** for **the Sea and the South.** However, it is clear (I suppose) out of the

[q] *Esdras, l. 2 cap. 7.*

[r] *Esther. 10. 1.*

[s] Ἔγραψε δὲ ὁ Βασιλεὺς ἐπὶ τῶν Βασιλείαν τῆς γῆς καὶ τῆς Θαλάσσης.

[t] *Deuteronom. cap. 33. 23.*

[u] *Numb. 34. 11. & 3.*

[x] *Ad Deut. lib. 2. c. 18.*

the places alleged, ſuch plain Teſtimonies are found in holy Writ touching ſuch a Dominion of the Sea, that in the mean time it muſt bee granted, that according to the *Univerſal Permiſsive Law*, any man may acquire it as well as the Land. And truly, as for thoſe places quoted in the foregoing Chapter, concerning the South, Weſt or Sea and Northen Bounds of the holy Land, they are ſo underſtood both by the Jewiſh Lawyers and Divines, that they would have either the great or *Phœnician* Sea it ſelf, or at leaſt ſom adjoyning part of it to bee aſsigned alſo by God unto the *Iſraëlites*, as Lords of it for ever; of which point wee ſhall diſcourſ a little more fully. As for that which is rendred there out of the vulgar Edition, touching the South Border, [y] *As far as the river of Egypt*; *and it ſhall bee bounded by the ſhore of the great Sea*, the Hebrew ſaith, *ad Torrentem Ægypti*, **unto the River of Egypt** (or the North-entrance of *Nilus*, which divided the Land of *Iſraël* from *Egypt*, at the Sea) *& erunt exitus ejus in Mare*, **and the goings out thereof ſhall bee into the Sea.** So that concerning that Borders beeing bounded by the ſhore (as it is in the vulgar) wee finde it no otherwiſe expreſſed there in the Original. Then, it is added next, concerning the Weſt-border or that which is at the great Sea, word for word out of the Hebrew. *As for your Sea-border, you may have the great Sea, And let this bee your border, or let it bee your Sea border, or border of the Sea.* And there the Greek Interpreters render it thus, *you ſhall have the bounds of the Sea*, or *they ſhall bee your bounds. The great Sea ſhall bound you*: wherein (after their uſual manner) they plainly follow the Text of the *Samaritan* Copie: For, there wee read it thus, *And you ſhall have a Sea-border. The great Sea ſhall bound you. Let this bee your Sea* or *Weſtern-border.* And thus the word SEA beeing uſed as well for the Weſtern Quarter as for

[y] *Uſque ad Torrentem Ægypti; & magni Maris littore finietur.*

for the Sea it ſelf, that place is for the moſt part ſo rendred, that in ſo ſhort a period the Sea is taken for both. *As for the Weſt-Border, you ſhall have the great Sea. And this Border ſhall bee your Weſt-Border.* As it is expreſſed by the Jews of *Spain*; *y Termino de ponente*; *y ſera à vos el mar el grande: y Termino eſte ſera à vos Termino de ponente.* Thus is alſo in *Onkelus* and *Erpenius* his Arabick; ſave that *Onkelus* render's it thus, *But your Weſt-border ſhall bee the great Sea and the Border thereof; the ſame ſhall bee your Weſt-border.* But an Arabian Tranſlation in manuſcript, for which wee are beholden to the Earl of *Arundel's* Librarie, after theſe words, *unto the River of Egypt*, add's alſo, *And the going out thereof ſhall bee at the Coaſts* or *parts of the Sea. And the Border of the Sea ſhall bee your Border. Alſo the great Sea in their Borders. This ſhall bee your Border from the Sea Coaſt.* But the North part, as appear's by the particulars alleged in the former Chapter, is bounded by mount *Hor*: ſo that it appear's hence, that the more Northerly enterance of *Nilus*, that is the *Peluſiock* (as it ſeem's; for they are not well agreed about the very particular place) ſerved inſtead of Bounds to the South part of the Land of Iſraël, which border'd upon the Sea, as alſo to that part of the Promontorie or foot of mount *Hor*, which was ſituated North-Eaſt by the Sea. But this mount is that which in the vulgar edition is called *an exceeding high mountain.* In the Jewiſh Commentaries it is known alſo by the name of *Amana*, and *Amanon*, and *Amanus*, and by ſom it is taken for that mountain in the *Canticles*, called [x] *Amana.* And in the Jewiſh *Targum*, [z] *Manus* is put for mount *Hor.* It is taken alſo for *Libanus*, by ſuch as in their [a] Deſcriptions of the Holie Land, are wont to make mount *Libanus* its Northern Border. But as touching this mount *Hor* or *Amanus*

[x] *In gloſſâ Jarchii ad cap. 4. Cant.*
[z] *In Num. 34 & vide gloſſ. talmud ad tit: Gittin. cap. 1. fol. 8.*
[a] *Lyran. ad Numer. 34. Andr. Maſius ad Joſuam. Adricomius, Jacob Bar Abraham in Tab. Chorographica Terræ ſanctæ &c. Et vide Abulenſ. ad Num. 34. q. 2.*

(of the same name with that mountain, which but's out into the Gulph now called *Golfo dell' Aiazza* by som also taken for the same [b] or rather mount *Taurus*) it is described after this manner by *Solomon Jarchius, it is seated in a north west corner. It's head bending downward stretcheth out into the very sea. And it is wash't in divers places by the main.* Betwixt these Bounds, to wit, the Southern part or the *Pelusiack* entrance of *Nilus*, and the North-East Bound or Promontorie of the aforesaid mount, the great sea, which is reckoned the Western Bound or Border, haivng divers windings and turnings along the shore, is stretcht out in such a manner above 200 miles, that if a streight line should bee drawn from the North-East Border to the Southern, a great part of the Sea that extend's it self within the line for so many miles, must needs bee intercepted. which also is very easily to bee understood without the help of a Map.

[b] *Gloss. ordinar. ad numee.* 34.

These things beeing thus premised, briefly, but so far as the matter in hand require's, to discover the western part of the Holie Land, bordering wholy upon the Sea, and that according to the judgment of the antient Hebrews, not by modern Descriptions; it is to bee consider'd, that the Jewish Divines and Lawyers, when they discours *about the precepts and Laws belonging to the Land of Israël*, that is, of those to which they conceiv themselvs not bound by the Holy Law, without the Limits of that Land, use to treat very precisely, even to an hair, touching the Borders of their Dominion, as it was appointed by the Command of God. To wit, touching the Bounds of their Territorie, as the name Territorie signifie's the whole, not onely Lands and Fields, but Rivers also and all other waters within the circuit of each Citie, as it is rightly taken also by the

[c] Civil

[c] Civil Lawyers. The Precepts ſpoken of, are thoſe which are received by the Jews, touching the obſervation of the *Sabbaticall year*, *oblations of Fruits*, the *Levitical cuſtom of Tithing*, and others of that kinde. For by the Law of God, they will not yield that thoſe things ſhould bee obſerved out of the Iſraëlitiſh Dominions, although, [d] by Tradition of their Anceſtors, they were uſually obſerved in *Egypt*, *Idumæa*, the Land of *Moab*, and *Shinar*, both by reaſon of their neighborhood, and the frequent converſ of the Iſraëlits among them. But now ſo far as concern's the weſtern or Sea-bordering of the Land of Iſraël, as it was aſsigned at firſt by God, in obſerving Precepts of this kinde, according to the holie Law, wee meet with two opinions in their Commentaries, from both which indeed it will appear, that the Sea was aſsigned by God Himſelf unto the Iſraëlites, as Lords thereof, in the ſame manner as the Land, though one opinion aſſign's larger Bounds, the other much more narrow: So that they all agree about the thing, differing onely about the latitude. The firſt opinion is of thoſe who affirm, that the whole weſtern Sea (as it lie's before the weſtern Coaſt of the Land of Iſraël or as it is bounded inward by ſtreight lines drawn on both ſides, from the North-eaſt and South border before mentioned, through that Ocean into the weſt) together with the Continent was given unto them by God; and therefore that thoſe Precepts are to bee obſerved in that vaſt Ocean, as in the Territorie of Iſraël. The chief Autor of this opinion was an antient and very famous Interpreter of the Law, by name *Rabbi Jehuda*, who alſo from the expreſs words of the Holie Law above-mentioned,

[c] *Cæſola de Servitutibus Ruſtic. Præd. cap. 26. §. 26. Hieronym. de monte, l. de finibus regundis cap. 6. § 8. Alberic. Gentilis de jure Belli lib. 3. cap. 17. Dd. in l. 9. ff. de judiciis.*

[d] *Moſes Maimonides halach. Therumoth cap. 1. & Mikotzi, Præcep. Affirm. 133.*

concluds that the weſtern Ocean, thus bounded on both ſides, was aſsigned. His Doctrine is deliver'd after this manner, as wee finde it in the moſt antient Digeſts of the Jewiſh Law. [e] *Whatſoëver lie's directly oppoſite to the Land of Iſraël, it is of the ſame account with the Land of Iſraël, according as it is written;* [f] *As for your Weſt-Border, let your Border bee*, or *you ſhall have, the great Sea. Alſo let this bee a Border to you*, or *your Border. To wit, the Border of the Sea*, or *of the Weſt. Alſo the Collateral Iſlands ſituate on both ſides in the ſame direct line, fall under the ſame accompt with the ſides themſelvs. So that if a line were drawn from Cephaloria through the Iſles to the main Ocean, and from the River of Egypt to the Ocean, then that which is within the line, is to bee taken for the Territorie of Iſraël, and that which lie's without the line to bee out of the Dominion of Iſraël.* The line drawn from *Cephaloria*, was directed by the Promontorie of mount *Hor* or *Amanus*, as is ſaid before: For that Citie was ſeated on the top of that mountain, which is here the North-eaſt Border; as it is obſerved in the Gloſs upon the place alleged, and in many other. There alſo this opinion is thus explained. *According to this opinion of* Rabbi Jehuda, *all that Sea which lie's oppoſite to the length of the Land of Iſraël, even to the main Ocean, Weſt-ward, where the world it's ſelf is bounded, is to bee reckon'd within the Territorie or Dominion of Iſraël; even as it is written, the great Sea, and your Border* (the whole place wee gave you a little before out of *Numbers*) *where* [*and your Border*] *is added the more fully and plainly, to intimate that the great and wide Sea is contained alſo within it's Border.* And it follow's there thus; *Between thoſe little Cords* or *Lines* (directed, as wee ſaid, on both ſides to the main Sea) *there*

[e] *Gemara Babylonia ad tit. Gittin, ſeu de libellis Divortii & manumiſſionis cap. 1. fol. 8. a. Idem, ſed depravatè legitur in Gemara Hieroſolymitanâ, ad tit. Shebiith ſeu de Anno Sabbatico, cap 6. fol. 36. col. 4.*

[f] *Numer. 34. 6.*

there are Iſlands belonging to the Territorie of Iſraël; the Iſlands and waters have both the ſame Law &c. Hence alſo the ordinarie Jewiſh Gloſs upon thoſe words in *Numbers*, *And you ſhall have the great Sea*, ſaith, *The Iſles that are in the midd'ſt of the Sea, even they alſo are part of the Bound* or *Border.* But the Jewiſh Paraphraſe is more plain there, *And let your Border bee the great Sea, that is, the main Ocean, and it's Iſles, and Cities, and Ships, with the principal waters that are in it.* Nor was it upon any other ground, that [g] Rabbi *Aben-Ezra*, [h] Rabbi *Bechai*, and others, conceived ſo great a part of the Sea, did belong to the Iſraëlites by this aſsignation, that they interpret the great Sea alſo to reach through the Sea הַכִּפְּרִי that is, the Spaniſh Sea, diſtant ſo many miles Weſtward from the Continent of Iſraël. In both the forenamed places, the words are, *The great Sea, to wit, the Spaniſh. And your Border; as if it had been ſaid, The great Sea ſhall bee your poſſeſsion, which of it ſelf alſo is your Border.* But in the mean while it is to bee conſider'd, that the whole weſtern Ocean as far as the narrow channel of *Cadiz*, is by the Arabians and ſo by the modern Jews, who were their Diſciples, indifferently called the *Romane Sea*, mare *Al-ſhem*, or the Sea of *Damaſcus* (that is the Syrian Sea) mare *Al-Andalús* (or the Spaniſh) and laſtly, the *mediterranean Sea*; the whole beeing denominated from the Coaſts of ſom particular Countries: As it may bee clearly collected both out of the Nubian Geographie, as alſo out of the Geographical Abridgment of [h] *Abu Elchaſen Hali* an Arabian. But this is moſt certain, that the name of the Spaniſh Sea hath been uſed here by the Rabbins, not from ſuch a promiſcuous or common denomination of the Sea; but according to the explanation of ſuch an antient Aſsignation of the Dominion of Iſraël as wee

[g] *Ad Numer.* 34.
[h] *Ad Numer. pag.* 199. *col.* 3.

[h] *Ms. in Bibliothecâ Oxonienſi.*

have mentioned. And ſo this firſt opinion would have the whole Weſtern Ocean, as far as the ſtreights of *Cadiz*, which the Antients thought the utmoſt Bound of the world, to bee reckoned for that part of the Territorie of Iſraël, which is included within the lines drawn from the Promontorie of mount *Hor* or *Amanus* and the entrance of *Peluſium*, into the Weſt. But by the other opinion, which ſeem's much more agreeable to reaſon, it is determined, that the Divine Aſsignation of the Territorie of Iſraël is comprehended indeed within more narrow Bounds of this Sea, but yet Sea-room large enough: ſo that according to this opinion, the North and South-Borders do end at the very ſhore, or at the utmoſt point of the ſaid Promontorie, North-Eaſt, and at the entrance of *Peluſium*, towards the South; not ſtretching any farther, into the Weſt. But indeed the Autors of this opinion would have a ſtreight line drawn from that Promontorie to the entrance of *Peluſium*, to wit from the North-Eaſt into the South, thereby to limit and bound the Weſtern part of the Dominion of Iſraël; ſo that what portion ſoëver either of the Sea or the Iſles ſhould bee comprehended within ſuch a line, or lie on the Eaſt ſide of it, the whole were to bee reckoned a part of the Territorie of Iſraël, as well as any Coaſt upon the Continent or main Land. And ſo after this manner, the aforeſaid line, included within the nooks and windings of the ſhore of that Territorie (poſſeſſed by the Tribes of *Aſher*, *Ephraim*, *Dan*, *Zabulon*, and *Simeon*) was ſituate before very large ſpaces of of the Sea, for above two hundred miles; and ſuppoſed to bee of the ſame accompt with the ſhore it ſelf. In the Digeſts of the Jewiſh Law, this opinion is explained thus; [i] *That it may bee known what com's under the name of*

[i] *In Gemara Babylonica ad tit. Gittin ſeu de libellis Divortii & Manumiſsionis. cap.* 1. *fol.* 8.

of the Territorie of Iſraël, and what is to bee reckoned out of that Territorie (as to the North-Eaſt and Weſtern bounds;) *whatſoëver is ſtretcht forth on this ſide and within Mount Amanus, is the Territorie of Iſraël. And that which is placed beyond that Mountain, is without this Territorie. And ſo by the ſame reaſon it is to bee determined touching the Iſles of the Sea that are ſeated over againſt that Mountain. Let a ſmall Cord or Line bee drawn over thoſe Iſlands, from Mount Amanus to the river of Egypt; that is conteined within the Line, is the Territorie of Iſraël; but that which lie's without the Line, is no part of that Territorie.* With this agree's that of *Ezekiel*, concerning the Sea-Coaſt of the holy Land, after hee had deſcribed the South part which is near the Sea; [k] *The Weſt-ſide alſo* [*ſhall bee*] *the great Sea from the border till a man com over againſt Hamath. This is the Weſt, or Sea-ſide* (or Coaſt.) The vulgar read's it thus, *The great Sea alſo ſhall bee its Sea-border, ſtrait along from the border till you com to Emath. This is the Sea-ſide*: Which the Greeks render thus; τῦτο τὸ μέρος νότος ☾ λίψ· *This part is South and South-Weſt*, according to the tranſlation of the fore-going words. Then, according to what hath been alleged out of the Hebrew, it follow's in the Greek, *This is part*, or *this divide's part of the great Sea, untill a man com over againſt the entrance which lead's to Hemath, even to the entrance thereof. Theſe are they which lie near the Sea of Hemath.* So that every Tranſlation ſpeak's to the ſame purpoſe. But that which wee have added to the Hebrew, agree's both with the Chaldee Paraphraſe, and the Expoſition of the Spaniſh Jews. Moreover, *Solomon Jarchius* expound's it there after this manner, according to the doctrine of the Antients; *From the South-Corner* (for, ſo hee interpret's this word, from the Border) *which is the river*

[k] *Ezek. cap.* 47.20.

of

of Egypt, till a man com over againſt the entrance which lead's to Hamath; that is, to the Corner ſituated under the North-weſt, which is the very Mount Hor over againſt the entrance unto Hamath. For, Hamath was ſeated on the North-weſt ſide near Mount Hor. And ſo that which is cut off here by the Border in a ſtrait line (as the *Vulgar* hath it) drawn from the entrance of *Nilus* to the Promontorie of Mount *Hor*, contein's no ſmall portion of the Sea as aſsigned unto *Iſraël*. And this later Opinion is the better received, whereby onely the nearer Parts of the Sea are, by God's appointment, conceived to bee in the very ſame condition with the continent; as appear's not onely out of the more antient *Digeſts*, or both Volums of the *Talmud*, but alſo by the Teſtimonie of thoſe moſt learned Rabbins, [l] *Moſes Maimonides* and [m] *Moſes Cotzenſis*, beſides others of a leſs account, who in expreſs terms imbrace it. Alſo, according to both theſe Opinions, that is in the mean time of ſufficient Autoritie, which is deliver'd in general terms touching the beyond-Sea Provinces, by [n] *Solomon Jarchius*, [o] *Rabbenu Niſſim*, [p] *Obadiah Bartenorius*, and others; *to wit, That whatſoëver lie's without the Territorie of Iſraël, that whole Province or Citie is often compriſed under the Notion of the Sea, except Babylon.* After the example of the Sea-Provinces, ſituated afar off in the Weſt, without the Lines drawn according to this or the other Opinion, the Mediterranean Provinces and Cities alſo, which were ſeated in other remote Parts, without the Borders of *Iſraël*, have in ſtead of beeing called a ſtrange Land, been termed the Provinces or Cities of the Sea. Which point is very well handled by *Rabbenu Niſſim* in the former place. But as theſe, which were ſeated without their Territorie in the continent, were onely by the ſaid Cuſtom of ſpeech called Cities of the Sea, ſo alſo it

l *Halach* Therumoth, *ſeu de Oblationibus*, c. 1.

m *Præcept. Affirmat.* 133.

n *Ad Tit. Gittin. cap.* 1. *fol.* 1.

o *Ad Alphesium, part.* 2. *pag.* 554.

p *Ad Miſnaioth, tit. Gittin, cap.* 1. ubi & vide *Rabbi Jom Tob.*

it is clear by what wee have ſhewn you, that according to the ſame way of ſpeaking it is granted, that other Cities alſo within their Territorie were ſeated in the verie Sea. And ſo at length, from both the Opinions, here recited, wee have ſufficiently proved, that ſuch an Expoſition of the divine Aſsignation was received by the antient Interpreters of the Jewiſh Law, to whom that Aſsignation was made, that they made no doubt but the Sea was every jot as capable of private Dominion, as the Land; and ſo reckoned thoſe Iſlands placed in the neighboring Sea, as belonging to the Territorie of *Iſraël*, becauſ of their Dominion over the Sea that did flow between them. Nor doth it hinder at all, that in their Aſsignations or Diſtributions wee ſo often finde this Particle *uſque ad Mare*, **unto the Sea**, as appear's in the former Chapter; or that the Sea was their Border. For, the word *uſque*, **until** or **unto**, is not onely often [q] incluſive, but alſo the Borders or Limits themſelves are [r] many times all one with the thing limited; after the ſame manner as all Bounds that are bounded. Touching which Particular, both the Canoniſts and Civilians are very Copious; as alſo the Jews in thoſe other Particulars alreadie mention'd. And therefore wee conclude out of the Premiſſes, that neither the *Divine Law* which is *univerſal*; nor the *Poſitive*, as it appear's, in Scripture, to bee *Imperative* or to have a command over ſom certain Nations (for, there is a true picture of the *Imperative Law* in the aforeſaid diſtribution of Bounds) doth oppoſe a private Dominion of the Sea; but that both of them do ſufficiently allow it; and afford alſo very clear examples of ſuch a Dominion (if wee may believ the Jews themſelvs.) In the next place then, let us conſider (what is yet behinde) of the *Law natural* and of

[q] *Bartol. ad lib. 35. Patronus ff. tit. de legat. 3. & l. Nuptæ ff. de Senatoribus.*

[r] *Archidiac. in. c. Eccleſias 13. q. 1. Hieronymus de Monte, lib. de Finibus Regundis, 23.*

That the natural-Permiſsive *Law (whereof any uſe may bee in this place) is to bee derived out of the* Cuſtoms and Conſtitutions *of the more civilized and more noble* Nations, *both antient and modern.*

Chap. VII.

AS to what concern's here the *Law Natural*, as one head of the *univerſal* or *Primitive Law of Nations*, in our former Diviſion of the Law, commonly derived from a right and diſcreet uſe of Reaſon; that it doth in no wiſe gainſay a private Dominion of the Sea, but plainly permit it, wee ſhall prove hereby; becauſ by the *poſitive Law of Nations of every kind*, which is humane, (for wee have alreadie ſpoken of the Divine) to wit, as well by the *Law Civil* or *Domeſtick of divers Nations*, as the *Common Law of divers Nations*, whether it bee *Intervenient*, or *Imperative*; that is to ſay, by the Cuſtoms of almoſt all and the more noble Nations that are known to us, ſuch a Dominion of the Sea is every where admitted. It is not indeed to bee denied, that a right uſe of humane Reaſon, which uſually ſerv's as an Index of the natural Law, cannot well bee gather'd from the Cuſtoms of ſeveral Nations, about things Divine or ſuch as relate unto Divine Worſhip. Nor are the Points either of the *Obligatorie* or *Permiſsive* kinde of natural Law relating thereunto, to bee thence determined. For, it hath been the common Cuſtom of men, in all Ages and throughout all parts of the known World, to conclude of ſuch maters, either without exact and convenient examination, or elſ for the ſerving of their

their own Intereſts, or elſe to ſuit with the humor and diſpoſition of the people whom they are to rule and keep in order; as do the Pagans, Mahometans, and others of that ſort, as well modern as antient. And therefore *Antiſthenes* of old taught well and boldly at *Athens*,[a] as many other Philoſophers have don, *Populares Deos eſſe multos, ſed naturalem unum eſſe*, **That there are many National Gods, and but one Natural,** contrarie to what the moſt uſual practice of men and Cuſtom had introduced among the ordinarie ſort of People. So that as of old in the *Jewiſh* Church, ſo alſo in the *Chriſtian*, the uſe of humane Reaſon among the vulgar, though free in other things, yet when it dived into the contemplation or debate of Religious matters, it hath often been moſt deſervedly reſtrained, by certain ſet-Maxims, Principles, and Rules of holy Writ, as Religious Bolts and Bars upon the Soul; leſt it ſhould wantonize and wander, either into the old Errors of moſt Ages and Nations, or after the new devices of a rambling phanſie. And truly, ſuch a courſe as this hath ever been obſerved in Religious Government. But in ſuch things as are meerly humane, and ſo humane that they reflect only upon matters of dutie betwixt man and man, and are not forbidden by any command of God (of which kinde you cannot ſo much as imagine any thing more plainly to bee, then a diſtinction of the Dominion of Territories, and the manner thereof which is wholly grounded upon the conſent of men) that which ſhall bee permitted by the *Law Natural*, is no leſs rightly determined by the Laws, Placarts, and received Cuſtoms of divers Ages and Nations, both antient and modern, then it may bee collected what every Clime will or will not bear, by the diligent obſervation of Countries, Shrubs, Trees, Plants, and other things

[a] *Cicero de Naturâ Deorum, lib.* 1.

which belong unto the bodie of Husbandrie. For, as many Nations as have admitted such a private Dominion as wee inquire after, whether by a Law Civil or Domestick of their own, or by any Law common to themselvs and their neighbor-Nations, are either to bee allowed competent Witnesses of the *natural permissive Law* (so far as there is any use of it here;) or elſ it must bee said (which I believ no man dream's) that so many and those the more famous Nations, have for so many Ages erred against Nature. Concerning the *Law Natural*, *Justinian* saith, [b] *Quod Naturalis ratio inter omnes homines constituit, id apud omnes populos peræquè custoditur, vocatúrque Jus Gentium, quasi quo Jure omnes Gentes utuntur* **What Natural reason establisheth among all men, that is observed by all people alike, and is called the Law of Nations, as it were by a Law which all Nations use.** And *Caius*; [c] *Jus Gentium ratione naturali inter omnes homines peræquè servatur*; **The Law of Nations is by natural reason observed alike among all men.** But where are all Nations? It is not yet discover'd how many there are, much less upon what Customs they have agreed. Nor is that in any wise found in the Customs of all those Nations that are discover'd, which som notwithstanding imbrace as a part of the *Law Permissive*. What have the midland Nations to do with that Law concerning the Confiscation of wrecks at Sea, which hath been used by the *English*, *Britains*, *Sicilians*, and som other Nations bordering upon the Sea. The inslaving of Prisoners of War is grown out of date, as a thing not permitted among Christian Nations, which nevertheless is in use still among the *Mahometans*. In vain therefore is a Rule and Direction sought here out of the Customs

[b] *Instit. de Jure Nat. §. Jus Naturale.*

[c] *L. 1. ff. de Adquir. rerum Domino.*

Cuſtoms of all Nations; but eſpecially ſeeing ſom are not wanting who

——non fœdera Legum
Illa colunt, placidas aut Jura tenentia mentes;

Whom neither League nor lawful compact binde s;
Nor Laws that rule and pacifie men's mindes.

as hee ſaith [d] of the *Bebrycians*. That there have been ſom ſuch Nations, is expreſly recorded alſo by [e] *Ariſtotle*. And *Saluſt*, out of the mouth of [f] *Hiempſal*, ſaith concerning the *Getuli* and *Libyans*, the antient Inhabitants of *Africa*, *Neque moribus, neque Lege, neque Imperio cujuſquam regebantur*, **They were ruled neither by Cuſtom, nor by Law, nor by the command of any.** And in another place concerning the [g] *Aborigines*; *Genus hominum agreſte, ſine Legibus, ſine Imperio, liberum atque ſolutum*; **A rude ſort of men, without Laws, without Government, free and diſſolute.** Therefore wee muſt have recourſ here unto the more civilized and more eminent Nations of the paſt and preſent Age, and of ſuch whoſe Cuſtoms wee are beſt acquainted with. And among them truly, not onely ſuch as thoſe very Nations, whom it may chiefly concern here, have ever highly eſteemed; but alſo thoſe Nations, who are concerned at preſent, ſhall bee proved competent Witneſſes.

[d] *Val. Flacc. Argonautic. 4.*
[e] *Nicomach. lib. 7. cap. 6.*
[f] *In bello Jugurthino.*
[g] *In conjurat. Catilinar.*

But of the Teſtimonies, that wee intend to uſe there is a twofold kinde. Som are thoſe which ſhew, that a Soveraigntie and private Dominion of the Sea hath been by Hiſtorians and other Writers, almoſt in all Ages, acknowledged and granted to Princes,

People, and others. Other Teſtimonies there are which demonſtrate out of Lawyers, alſo by Leagues and Treaties, and other particulars of that nature, that ſuch a Dominion of the Sea, is in like manner agreeable unto Law. Both which wee interweav, as the order of Things direct's us. But yet ſo, that what matters, either of Fact or Law, do appertain unto the *Britiſh* Sea, are wholly pretermitted in this collection of Teſtimonies, with an Intent to diſpoſe them apart in the *ſecond Book*. And ſo at length it will bee very clearly manifeſted together, both what the *Civil Law of Nations*, as alſo what the *Common Law of divers Nations*; and laſtly, what the *natural permiſsive Law* (which in this caſe is to bee drawn out of the Cuſtoms of Nations) hath determined touching private Dominion of the Sea.

The manner, whereby the Law Permiſsive *touching private Dominion of the Sea, may bee drawn out of the Cuſtoms of many* Ages and Nations. *That there were Teſtimonies hereof manifeſt enough in the* Fabulous Age. *Alſo, a word by the way, touching the* Mediterranean Sea *in poſſeſsion of the Romanes, when the* Command *thereof was committed to* Cneius Pompeius.

Chap. VIII.

THe Ages, out of whoſe Monuments and Actions the aforeſaid Cuſtoms, determinations, and Decree's of People and Nations, are to bee derived, I divide into two parts. Into the *Fabulous Age*, and the *Hiſtorical*.

Hiſtorical. But wee do not, according to *Varro,* call that *Fabulous* which wholly preceded the beginning of the *Olympiads*; but that which is obſcured onely by the moſt antient Fables, at leaſt under a fabulous Repreſentation; The *Hiſtorical* beeing in the mean time divided into that which is more antient and comprehend's the Cuſtoms of ſuch Empires and Common-wealths as expired ſom Ages paſt; And into that which is modern, and ſhew's the practice of thoſe Nations, in the preſent caſe, which are now in Beeing. But in applying our ſelvs unto the *fabulous Age*, wee do not ground Arguments upon Fables, as they are meer Fables; but wee manifeſt Hiſtorical Truth out of the moſt antient Hiſtorians, though wrap't up in the myſteries of Heathen Prieſts and Poëts. For, (as [a] *Lactantius* ſaith well) even *Thoſe things which the Poëts ſpeak are true, but cover'd under a certain veil or Figure. And yet they have ſo veiled the Truth with Fiction, that the Truth it ſelf might not take off from the common belief of the People.* They write, that in the fabulous time afore-mentioned, the *Titans* beeing ſubdued, the Brother-Deities, *Jupiter*, *Pluto*, and *Neptune*, divided the world by Lot; And that Heaven was allotted unto *Jupiter*, Hell to *Pluto*, the Sea to *Neptune*. But omitting thoſe Trifles, whereby the vulgar ſuffered themſelvs with patience to bee cozen'd, touching the Heaven or Skie, the kingdom of Hell or of the dead, and of the whole Earth's beeing common, after this diviſion, to all the [b] Brothers, ſom of the Antients have taught, that the Truth it ſelf which lay couched in this Fable, was quite another Thing. They ſay theſe were not gods, but men. Alſo that *Jupiter* was not King of Heaven, but of the Eaſtern part from whence the Light

[a] *De falſa Religione, lib. 1. cap. 11.*

[b] *Homer. Iliad. 15. ſeu 0.*

Light firſt dawn's upon mortal men; by which means alſo it ſeemed the higher part, and therefore was called Heaven: And that *Pluto* was King of the Weſt, which point's at the Sun's ſetting and Night, from whence it was ſaid to bee lower and Hell. Laſtly, that *Neptune* was Lord of the Sea and the Iſles ſcatter'd therein. Thus it appear's here, that a private Dominion of the Sea, no otherwiſe then of the Land, aroſe from *Humane* diſtribution. And that the caſe ſtood thus, it was affirmed long ſince by *Euhemerus Meſſenius*, an old Autor, in his Hiſtorie of the Affairs of thoſe men who were ſuppoſed gods, recorded and tranſlated by *Ennius*. For, *Lactantius* ſaith thus; [c] *Concerning the lot or ſhare of Neptune, it is manifeſt I ſay, that his Kingdom was ſuch as was that unlimited command of* Cneius Pompeius, *who, by decree of the Senate, had Autoritie given him over all the Sea-Coaſt for ſuppreſsing Pirats, and ſcouring the whole Sea. Thus all things belonging to the Sea with its Iſlands fell by lot unto Neptune. But how may it bee proved? To wit, by antient Hiſtories.* Euhemerus *an old Autor, who was of the Citie of* Meſsina, *hath collected the Affairs and Atchievments of* Jupiter *and others that are reputed gods, and compiled a Hiſtorie of thoſe ſacred Titles and Inſcriptions that were found in the moſt antient Temples, and eſpecially in the Temple of* Jupiter *of Triphylia, where a golden Pillar was placed by* Jupiter *himſelf, as appeared by the Inſcription: Upon which Pillar hee wrote his own Actions, that it might remain a Monument of his Affairs unto Poſteritie. This Hiſtorie* Ennius *did both tranſlate and follow, whoſe words are theſe;* Jupiter *grant's the Dominion of the Sea unto Neptune, that hee might reign over all the Iſlands, and all Places near the Sea.* But both the Tranſlation of *Ennius*, and the Commentaries themſelvs of *Euhemerus*, are utterly loſt; nor is

[c] *Loco jam citato.*

is it to bee thought, that they were lost without the knowledg and design of the chief Priests of *Jupiter* and other Deities. For, doubtless whatsoëver had been written touching the Originals of the gods, was so much the more odious, by how much the more it did lay them open, and discover, that those great Names which were magnified in their Chappels and Temples, were taken out of the List either of great Kings, or Heroës, and obtruded upon the credulous vulgar. For, from hence it was, that *Euhemerus*, with *Diagoras* and som others, was branded an Atheist, who is used as a singular Autor, not onely by *Lactantius*, but also by *Clemens Alexandrinus*, *Eusebius*, *Augustin*, *Arnobius*, and others; to whom wee know very great credit is given in those Arguments that are pieced together against the vain Theologie of the Heathen. It is (I suppose) the same man that is called by *Plutarch* [d] *Tegeata*, when hee is ranked in the same form with *Diagoras*. But hee is by the same Autor called *Messenius*, when as beeing very obstinate in the [e] superstition of his Ancestors, hee brand's him as a great Patron of Impostures, and beeing induced (it seem's) by hatred against *Euhemerus*, hee conceit's there never were any such Nation, as the *Triphylians* or *Panchæans*, whereas *Panchæa* is an Island situate about *Arabia* in the more Southern Ocean, wherein *Euhemerus* placeth the Temple of *Jupiter Triphylius*, from whence that Storie touching the Dominion of the Sea was taken. Truly [f] *Diodorus* useth him also, as a grave Autor. A late Lawyer also make's use of that *Neptune* in *Homer*,

Ἦτοι ἐγὼν ἔλαχον πολιὴν ἅλα ναίεμεν αἰεὶ
Παλλομένεων ——————————

[d] *De Placitis Philosophorum, lib.* 1. *cap.*7.

[e] *Plutarch. lib. de Iside & Osiride.*

[f] *Bibliothec. lib.*6. *atque apud Eusebium de præparat. Evangelic. lib.* 2. *c.*4. *Adde Gerard. Vossium de Græcis Historicis, lib.* 1. *cap.* 11.

But of those things which were distributed by lot, I have taken the Sea for my share, that I might dwell therein for ever; so hee translate's it, that hee may with the more confidence take the whole matter related concerning the three Deities, as meant of *Noah's* three sons. His words are these; [g] *Id proculdubio ex partitione terrarum inter tres filios Noachi, ex quibus Japheto Insulæ obvenerunt, causam traxit*, **It may without question bee proved from that partition of Lands which was made betwixt** Noah's **three sons whereby the Isles of the Sea fell to** Japhet.

[g] *Jo. Gryphiander, de Insulis, cap. 31. § 75.*

So that in that fable hee would have [h] the Dominion not onely of the Isles, but also of the Sea, to bee assigned unto *Japhet*. But that which *Lactantius* saith touching the unlimited Command of *Pompey*, as parallel to the example of *Neptune's* Dominion, it is so to bee understood, that regard bee had also, as well of those that gave the Command to *Pompey*, as of him to whom the Command was given. As for instance, *the* Cilicians *had infested the Seas* (as Florus *saith*) *and having spoiled commerce, behaving themselvs like enemies of mankinde, they shut up the Sea with warr as it were a tempest.* Therefore the Romans, haveing a special eye to their provision of Corn, did by a decree of the Senate, procured by *Gabinius*, send out *Pompey* to [i] *free the Sea from Pirats.* And there was granted unto him by that decree, *a Command of the Sea which lie's within Hercules's pillars*; *and also of the continent about* 400 *furlongs from the Sea.* Hereupon, beeing master of a huge Navie, and having disposed divers Lievtenants through all parts of his Command, Hee so scoured the whole Sea from the straits of *Cadiz* to the *Cilician* shore

[h] *Genesis 10.*

[i] *Plutarch. in Pompeio, & Appianus Alexandrin. in Mithridaticis.*

shore, [k] *that none was able to stand before him either by Sea or Land.* Certainely *Pompey* had a Commission onely as Admiral of the People of Rome, as, *Paterculus* saith; *Mark Antony* had the like about two years before. But that people which intrusted him, was Lord of this Sea, as the Romane Territorie, as well as of those 400 furlongs of the Continent, which were joined alike with the Sea in the Grant of that Commission, though no more lyable to Dominion then the Sea it self. *Florus* saith also; [l] that *Tiberius Nero* (who was one of *Pompey's* Lievtenants) *blockt up the Streights of Cadiz, at the first entrance of our Sea.* Hee beeing a Romane rightly call's it *our Sea* (as also [m] *Salust* doth more then once) becaus it was so wholy subdued under the Romane power. And *Dio Cassius*; *Hee scoured the whole Sea, which was under the Romane obedience.* And, saith *Mela*, of the Mediteranean Sea, *all that Sea, whencesoever it flow's, or whithersoever it spread's it self, is called by one name, Our Sea.* So it is called likewise by others. [n] And *Mela* useth the name *our Sea* very often afterwards. But more of this hereafter, where wee treat more largely concerning the Dominion of the *Romanes* by Sea. Nor did *Pompey's* commission extend onely against those Pirats, as enemies of humane society (after the same manner as wee see Commissions daily granted against Pirats, that rob and spoil in any Sea not yet possessed) but that very Sea-Territorie, which the *Cilicians* had invaded, was recover'd by Arms. From whence [o] *Manilius* break's forth in a Poëtical rapture,

[k] *Dio. lib. 36.*

[l] *lib. 3. cap. 6.*

[m] *In bello Jugurthino.*

[n] *Orosius. lib. 1. cap. 2.*

[o] *Astronomic. lib. 4.*

Quis te Niliaco peritarum littore, Magne,
Poſt victas Mithridatis Opes, pelagúſque receptum,
Crederet? ———

Who would have thought, great Pompey,
When for Rome
Thou Mithridates **forces had'ſt o'recom,**
And did'ſt from Pirats hands the Sea reſtore,
Thou ſhouldſt have periſh't on th' Egyptian
ſhore?

Therefore, *Lactantius* ought not ſo much to have reſembled *Neptune* to *Pompey*, as to the People of Rome, in beeing Lord of the Sea. Other matters there are in the *fabulous time*, which beeing ſpoken of the Gods, may ſeem to ſhew, what opinion the Antients were of touching the right and cuſtom of men in this particular. For, when they cloth their Gods with the perſons of men, they commonly ſpeak ſuch things of them as belong unto men. From whence *Hſiod* ſayeth, *Jupiter* granted unto *Hecate*, *that ſhee ſhould poſſeſs part of the Sea, as well as the Land.* Hereunto alſo belong's that of *Oppianus*, concerning [p] *Amphitrite's* beeing made Queen of the Sea by *Neptune*,

[p] *Halieutic. lib.* 1.

—ἁλὸς Βασιλείαν ἔθηκεν,
Hee conſtituted Her Queen of the Sea.

Alſo *Nonnus*, [q]

[q] *Dionyſiac. lib.* 34.

—Βερόη κράτος ἔσχε θαλάσσης.

Beroë had the Empire or *Dominion of the Sea.*

Inſtances of this kinde are innumerable. And therefore thus much concerning the *fabulous time.*

The

The firſt Dominion of the Sea *among the* Greeks *in the* Hiſtorical age; *that is, the Dominion of King Minos, or the Cretan.*

CHAP. IX.

THe former part of the *Hiſtorical time*, or that which comprehend's Kingdoms and Commonweals, which expired ſom ages ſince, wee begin from the Empire of the *Cretans* at Sea. Afterwards wee trace a catalogue not onely of very many People of old Greece, and other nations famous heretofore in the Eaſt, of like Command and Dominion in the *Syrian*, *Egyptian*, *Pamphilian*, *Lydian*, and *Ægean* Seas, and the ſeveral changes thereof; but alſo wee ſhew, that the Dominion both of the *Romans* and *Carthaginians* in their adjoyning Seas, as the upper, the lower, the more Eaſterly Sea alſo, and others of that kinde in the Weſt, hath been received into Cuſtom, as a thing very uſual, and agreeable to Law.

I.

MInos the ſon of *Lycaſtus*, ſaid to bee the ſon of *Jupiter* King of [a] *Crete*, poſſeſſed the *Cretan* Sea on every ſide and a great part of the [b] *Ægean* as Lord and Sovereign. So ſayeth *Thucydides*, [c] Τῆς Ελληνικῆς θαλάσσης ὅτι πλεῖον ἐκράτησεν, *Minos held the greateſt part of the Greek Sea as Lord thereof.* So truly, the word κρατεῖν is to bee conſtrued both here and in the following inſtances. Nor is it any wiſe

[a] Now called *Candia.*
[b] Now called *the Levant.*
[c] *lib.* 1.

wiſe to bee imagined, that ſo to *have Command* (as κρατεῖν commonly ſignifie's) can bee otherwiſe meant, than very plainly thus, that any one who is Lord, or at leaſt doth Act as Deputy or by permiſsion of him who is Lord, may preſcribe Rules and Laws to the number of other men's ſhips, and paſsage, Tolls or Tributes, throughout the ſeveral limits of the Sea, after the ſame manner as when hee withold's or permit's the uſe of his Land to husbandmen, according to his own will and pleaſure. Which in this caſe is all one. Howſoëver, wee are not ignorant, that Θαλασσοκρατεῖν ſomtimes ſignifie's only [d] *to bee ſtrong and powerfull in ſhipping.* In like manner, [e] *Diodorus Siculus*, [f] *Nicolaus Damaſcenus*, [g] *Strabo*, [h] *Cedrenus*, [i] *Suidas*, and others ſpeak expreſly. And *Phædra* likewiſe in *Seneca.*

[d] *If. Caſaubon in Comment. ad Polyb. pag.209.*
[e] *Biblioth. 4.*
[f] *Apud Stobæum Eclog. cap. 42.*
[g] *Geograph. 10.*
[h] *Pag. 11.*
[i] *In Minoe.*

[k] *O magna vaſti Creta Dominatrix freti,*
Cujus per omne littus innumeræ rates
Tenuere pontum; quicquid Aſsyriâ tenus
Tellure, Nereus pervium roſtris ſecat.

[k] *In Hippolyto act. 1.*

O mighty Creet, **thou Miſtreſs of the main,**
Whoſe many ſhips have fil'd both Sea and ſhores;
As farr as Nereus **doth, to** Aſhur's **Land,**
Plow out a paſſage with his ſtemm's and oars.

And the firſt Dominion of the Sea, that is, the firſt poſſeſsion of that part of it which was not yet poſſeſſed but remained vacant (from whence this kind of Dominion doth ariſe) they attribute for the moſt part unto *Minos*. But there is an error touching this matter, in *Jerom's* Traſlation of the Chronicle

[l] *Euſeb. Hieronym. Num. 765.*

nicle of *Eusebius*; nor is it to bee passed by, unless wee will carelesly neglect that which in plain terms may seem to oppose the most eminent Soveraigntie of the Sea among the Grecians. The Translation run's thus, *Minos Mare obtinuit & Cretensibus Leges dedit, ut Paradius memorat, quod Plato falsum esse convincit*, Minos **possessed the Sea, and gave Laws to the** Cretans, **as** Paradius **recordeth, which** Plato **prove's to bee false.** What then? Doth *Plato* prove it to bee false, that *Minos* gave Laws to the *Cretans*, and held the command of the Sea? or that either of Them is false? The place is plainly false and very much corrupted, both in the fained name of *Paradius*, an Autor, never heard of in any other place, as also in the very Translation of the Greek words of *Eusebius*. *Paradius*, I know not by what negligence (for I would not believ it of *Jerom* a pious and most learned man; but perhaps of som smatterer in learning, who presumed to enlarge those brief summarie discourses of his in that Chronicle) did arise even from *Para Dios*, that is, *ex Jove*, *from Jupiter*, which is found in the Greek words of *Eusebius*? For, there *Eusebius* saith, [m] *Minos* ἐθαλασσοκράτει *possessed the Sea, and gave Laws unto the* Cretans, *which hee brought* παρὰ Διὸς *from Jupiter, out of the Cave where hee had retired himself for nine years.* Touching those Laws received from *Minos*, which [n] expired not before *Crete* was subdued by *Cæcilius Metellus*, also concerning his Cave in Mount *Ida*, and the nine years, the matter appear's very plain out of *Homer*, *Plato*, *Porphyrie*, and others. But in the Greek of *Eusebius* it immediately follow's; ὅπερ ὁ Πλάτων ἐν τοῖς Νόμοις ἐλέγχει, which certainly here signifie's, *id quod Plato in Legibus adprobat* seu *confirmat*, **that which** Plato **in his Laws ap-prove's**

[m] *Chronic. Canon.* 110. *in Thesauro Temporum.*

[n] *Eutropius, lib.* 6.

prove's or **confirm's.** For, *Minos* his receiving of of ſuch Laws is the very ° foundation of *Plato's* Books *concerning Laws*. So little reaſon is there it ſhould have been tranſlated, *Quod Plato falſum eſſe convincit*, aut *quod Plato refellit*, **which** Plato **prove's to bee falſe, which** Plato **diſprove's**: whereas notwithſtanding that eminent man *Joſeph Scaliger*, uſing far leſs diligence here then was meet, or then hee hath been wont to do, would have the latter to bee added in that place. For, howſoëver according to the meaning and more common uſage of the word ἐλέγχειν, it may ſeem rightly tranſlated; yet the matter it ſelf, and the other ſignification of the word, doth manifeſtly prove our tranſ-action to bee true. But wee read the very ſame too, according to *Jerom's* Tranſlation, as copied out, by *Marianus Scotus* [p], and *Florentius* of *Worceſter*, ſave that in *Florentius* wee read *Plato falſum eſſe affirmat*, Plato **affirm's to bee falſe.**

° *Plato de legibus, lib.* 1.

[p] *Anno Mundi*, 2944.

That after Minos of Crete, Seventeen Nations *of Renown in the Eaſt, ſucceeding each other, did for very many years even without Intermiſsion, enjoy a Dominion of the* Syrian, Egyptian, Pamphylian, Lydian, *and* Ægean Sea, *no otherwiſe than of the Continent or Iſlands.*

Chap. X.

After the times of *Minos* the *Cretian*, wee finde in the Chronicles of *Euſebius* and *Africanus* no leſs then ſeventeen Eaſtern Nations, part of *Europe*, part of *Aſia*, who for very many years ſo held the

the inner neighboring Sea, as Lords one after another, that, according to the *Intervenient Law of Nations*, it is moſt evident a private Dominion of the Sea took place among them all. For, changing by courſ, and by length of time after long poſſeſsion, through War, Victorie, or ſom other kinde of Ceſsion, they every one ſhared their period of Domination, accompliſhing among them all above five hundred and ſixtie years without Intermiſsion. But from the beginning of the Sea-Dominion of *Minos* or the *Cretan*, to the next which follow's in the aforeſaid Chronicles, there fell out one hundred ſeventie five years. Thoſe beginnings are placed about the time of the Judges of *Iſraël*. They which ſucceeded, are ranked after this manner.

II.

IN the ſecond place the *Lydians* were Lords of the Sea. The Greek of *Euſebius* ſaith, [a] Λυδοὶ, οἱ καὶ Μαίονες, ἐθαλασσοκράτησαν ἔτη ϟϚ, *The Lydians, called alſo Mæonians, were Lords of the Sea* XCII *years.* The beginnings of this Dominion are reckoned about the time of *Æneas*. But as to what concern's the number of years, although it hath been the ſame both throughout the whole Hiſtorie of *Euſebius*, as alſo in his Chronicle; yet ſince the Empire of the *Pelaſgi*, which next follow's, is ſevered by the ſpace of CXX years or thereabout, perhaps it ought to bee amended, and ρκ or CXX to bee put in its place. Which that moſt excellent man *Iſaac Caſaubon* obſerved doubtingly, alſo in his Commentarie upon *Polybius*, where hee treat's very learnedly concerning thoſe, who have had Dominion of the Sea in the Eaſt. Likewiſe,

[a] *Pag. 31. & pag. 115. num. 940.*

Marianus Scotus and *Florentius* the Monk do mention the Sea-Dominion of the *Lydians*, as alſo of the *Pelaſgi*, without any number of years.

III.

THe *third* Lords of the Sea in this Catalogue, were the Pelaſgi. Yet *Euſebius* ſaith, [b] Πελασγοὶ δεύτερον ἐθαλασσοκράτησαν ἔτη πε, *The Pelaſgi in the ſecond place poſſeſſed the Sea* LXXXV years. Which is referr'd to the times of *Solomon*, and thoſe which follow. But the beginnings of the *Thracians*, who immediately ſucceed, require that they ſhould bee reckoned here rather LV years. And indeed the *Pelaſgi* were ſecond Lords of the Sea, if (according to ſom) you either make the *Lydians* the firſt, or place them the firſt after *Minos* or the *Cretans*. For, ſo the *Pelaſgi* are plainly the ſecond, otherwiſe the third. Which alſo is to bee obſerved in the following particulars.

[b] *Chronic. lib.* 1. *p.* 34. *& num.* 960.

IV.

FOurthly, the *Thracians* were Lords of the Sea, οθ, or LXXIX years (as wee finde in the [c] Greek of *Euſebius*;) which nevertheleſs are not reckoned above nineteen in *Jerom's* Tranſlation. But *Iſaac Caſaubon* is of Opinion, beeing induced thereto from the beginnings of the *Rhodians*, who were next Lords, that it ought to bee written πθ or LXXXIX. *Marianus* and *Florentius*, following the tranſlation of *Euſebius*, accompt onely XIX years to the Dominion of the *Thracians*. And it is obſerved more then once by them, as well as in the aforeſaid tranſlation, that the *Thracians* were Lords of the Sea. This was in the time of King *Jeroboam*.

[c] *Ibid. & num.* 1014.

V.

V.

Fifthly, the *Rhodians* held the Sea, as Lords[d] XXIII years. And hereupon [e] *Strabo* commend's their induſtrie in matter of Navigation, who ſaith, *Rhodes was ſoveraign Ladie of the Sea a long time, and ſuppreſſed Pirates.* In the Latine of *Euſebius*, the *Rhodians* are ſaid to have been the fourth in order that were Lords of the Sea. But in the Greek, that they were the fourth Lords of the Sea, and according to ſom, the fifth. Whence this difference aroſe, appears by that which hath been ſaid about the *Pelaſgi*. Of all the antient Lords of the Sea the *Rhodians* are moſt renowned; chiefly in this reſpect, becauſ the Sea-Laws which were uſed and in full force and virtue in both the Empires, were borrowed from them, and put into the *Digeſts* by *Juſtinian*. Saith the Emperor *Antoninus* to *Eudæmon* of *Nicomedia*[f], *Lege Rhodiorum decidantur lites Nauticæ*, **Let Suits about Navigation bee decided according to the Law of the** Rhodians. And by the Teſtimonie of *Conſtantinus Harmenopulus* a [g] Judg of *Theſſalonica*, they are the moſt antient of all Sea-Laws, that have not been loſt. They were taken into uſe among the *Romanes* from the time of [h] *Tiberius*. Their beginnings are placed about the Reign of *Jehoſaphat*: But the *Rhodians* are wholly omitted both by *Marianus* and *Florentius*.

[d] *Chron. Canon. pag.* 128. *& num.* 1100.
[e] *Lib.* 4.
[f] *Ad Legem Rhodiam ff. l.* 9. ἀξίωσις. *De Legibus hiſce vide etiam Baſilic. lib.* 53. *tit.* 8.
[g] *Prochir. Juris lib.* 2. *tit.* 11.
[h] *Jus Græco-Rom. Tom.* 2. *pag.* 265.

VI.

Sixthly, the *Phrygians* had dominion over the Sea XXV years; but (as it is in the [i] Greek of *Euſebius*)

[i] *Chro. Canon. p.* 129. *num.* 1127.

according to others $\overline{\text{XXVI}}$. In the Latine wee finde onely $\overline{\text{XXV}}$, as alſo in *Marianus* and *Florentius*. But yet ſeeing, in the Greek of *Euſebius*, the *Phrygians* are (for the aforeſaid reaſon) counted the fifth Lords of the Sea, *Iſaac Caſaubon* (I think) well obſerve's that that number of ſix doth not denote the years, but the order of Dominion. This Lordſhip is reckoned in the time of *Lycurgus*.

VII.

Seventhly, the *Cyprians* poſſeſſed the Sea, as ſom ſay, $\overline{\text{XXIII}}$ years; according to others, $\overline{\text{XX}}\,\overline{\text{XI}}$. For, this is found in ſom [k] Editions of *Jerom's* Tranſlation of *Euſebius*. That in the Chronicles of *Marianus* and *Florentius*, compiled for the moſt part out of *Euſebius* and *Jerom*. But neither in the Greek Copies of *Euſebius*, which are extant, nor in the Tranſlation ſet forth by *Joſeph Scaliger*, is any mention made of the *Cyprians*: nor truly in the accompt of *Iſaac Caſaubon*. This was in the time of *Joas*.

[k] *Edit. Baſil.* 1549.

VIII.

Eightly, the *Phœnicians* poſſeſſed the Sea. So *Euſebius*, *Marianus*, and *Florentius*; ſave that they make them the *ſeventh* by reaſon of that different manner of accompt, which hath been ſhewn you. Touching their Dominion the holy Scriptures themſelvs ſpeak plainly enough; which alſo wee have noted before in our diſcourſ concerning the Divine Law. The memorial of this Dominion is placed about the Reign of *Uzziah* King of *Judah*. Alſo this Nation of the *Phœnicians* became renowned for their skill in Navigation,

Navigation, as wee are inſtructed by *Pliny*, and others And heretofore (perhaps) that ought to bee referr'd, which is delivered by *Antipater Tarſenſis* and *Manaſeas*, two antient writers, touching *Gatis* Queen of the *Syrians* (who themſelvs alſo were *Phenicians*) whom they will have therefore to bee called *Atergatis*, becauſ (*as Antipater* ſaith) ſhee ſet forth an Edict, [l] *that none ſhould eat fiſh without Gatis*; or, as *Manaſeas* ſaith, *that no man ſhould eat fiſh without her licence and permiſſion, but that everie one ſhould bring the fiſh they caught unto her.* That which they hold concerning the Original of the word appear's ſufficiently ridiculous, whil'ſt they derive a *Syrian* or *Phenician* name from the Greek fountain. But the very thing which (I ſuppoſe) they would have, is this; That *Atergatis* was Queen or Sovereign Lady, not only of *Syria* or *Phenicia* (which is the Sea-coſt of *Syria*) but alſo of the Sea lying before it, in ſuch a manner that it was not lawful for any one to fiſh freely therein, at leaſt not to enjoy the benefit of fiſhing, without her conſent. From whence it was a Cuſtom to conſecrate fiſhes of Gold and Silver to her, after ſhee was placed among rhe Deities.

l Ἄλεϱ Γάτιδος μηδένα ἰχθῦν ἐσθίειν, ἀλλὰ πρὸς αὐτὴν ἀναφέρειν. *Apud Athenæum, dipnoſoph.* 8.

IX.

NInthly, after the *Phenicians*, the *Ægyptians* [m] poſſeſſed the Sea under their Kings *Pſamnitis*, and *Bocchoris* who lived immediately before the beginnings of the Olympiads. Mention is made of them alſo in *Marianus* and *Florentius*.

m *Euſeb.. Num.* 1230.

X.

IN the *tenth* place, the *Mileſians* were Lords of the Sea. The books of *Euſebius* do not ſhew the number of years. But both in *Marianus* and *Florentius* wee read, that the *Mileſians* poſſeſſed the Sea XVIII years. *Stephanus*, concerning Cities, ſaith, *Naucratis, a Citie of* Ægypt, *was built* [n] *by the* Mileſians *then poſſeſſing the Sea.* And *Euſebius* alſo mentions the building of that Citie, together with their Dominion at Sea, about the time of *Romulus*. In like manner they built *Sinope*, ſeated by the *Euxine* Sea, which (as *Strabo* ſaith) [o] commanded that Sea which flow's within the *Cyanean* Iſlands.

[n] ἀπο Μιλησίων τότε θαλατολρατούντων.

[o] *lib.* 12.

XI.

E*Leventhly* the [p] *Carians* poſſeſſed the Sea. Their Sea-Dominion is remembred by [q] *Diodorus Siculus*. It was about the time of *Hezekiah*.

[p] *Euſeb. Num.* 1281.

[q] *Biblioth.* 5.

XII.

T*Welfthly*, and next to the *Carians*, the *Leſbians* held the Sea in poſſeſsion. [r] LXIX years. So it is in the Latine of *Euſebius*. But *Marianus* rendreth it LVIII years.

[r] *Euſeb. Num.* 1341.

XIII.

T*Hirtenthly*, the *Phoceans* poſſeſſed the Sea, about the Captivitie of *Babylon*. Their Dominion laſted XLIV years. So ſaith the Greek of *Euſebius*

Eusebius, [r] Φωκαεῖς ἐθαλασσοκράτησαν ἔτη μδ *the Phoceans were Lords of the Sea* XLIV *years*. Before which words the number ιϛ or of twelve is prefixed, whereby it is signified, that they were the twelfth after the *Lydians*, and the thirteenth from *Minos*. [r] *Chron. lib.* 1. *pag.* 42.

XIV.

FOurteenthly, the *Corinthians* were Lords of the Sea. I do not finde, that they were thus ranked. But it appear's clearly out of [t] *Thucydides*, that they were very potent at Sea, and did so repreſs Piracies by their ſtrength in ſhipping, that they gained themſelvs a very large command by Sea, as well as by land. The ſame autor alſo mention's their extraordinary induſtry in reſtoring the affairs of Navigation. Nor doth time gainſay, but that wee may well place them here, as alſo the *Iönians* next. But wee do not as yet finde, that theſe fourteenth and the fifteenth are received by writers into the Catalogue of thoſe, who have thus held the Sea in poſſeſsion. [t] *lib.* 1.

XV.

FIfteenthly the *Iönians* were neighboring Lords of the Sea. Concerning them *Thucydides* ſaith, [u] *A good while after*, (to wit after the power of the *Corinthians* by Sea) *the power and intereſt of Navigation was in the hand of the Iönians, in the time of* Cyrus *the firſt King of the* Perſians, *and of his ſon* Cambyſes; *And* [x] *contending alſo with* Cyrus, *they injoyed their own Sea for ſom time.* where the old Scholiaſt add's by way of obſervation, γείτονος, δ' γὰρ πάσης, *the neighboring Sea; but not all.* [u] *Lib. citato.* [x] Κύρῳ πολεμοῦντες ἐκράτησάν τινα χρόνον.

XVI.

XVI.

Sixteenthly, the *Naxians*, were Lords of the Sea. *Eusebius* saith, [w] *In the fifteenth place the* Naxians *possessed the Sea, ten years.* About the time of *Cambyses.* It is spoken of the *Naxians*, named from the Island *Naxos*, which is one of the *Cyclades*, or Isles in the *Archipelago.*

[w] *Chronic. lib.* 1. *pag.* 43.

XVII.

Seventeenthly, the *Eretrians* succeeded into this Sea-Dominion. *Eusebius*, when hee speak's of the *Naxians*, saith, ὁ μετ' αὐτὸς &c. *And after them the* Eretrians, *in the seventeenth place, held it* VII *years.* *Eretria* was heretofore a famous and wealthy Citie in the Island of *Eubœa.*

XVIII.

And lastly, the last or *eighteenth* Lords of the Sea in this Catalogue were the People of *Ægina.* The Latine of *Eusebius* saith, [y] *the People of Ægina possessed the sea* XX *years, even until Xerxes his passage*; which is noted in the fourth year of the sixtie seventh Olympiad. But *Xerxes* made his passage in the seventy fift Olympiad, aud in first year thereof. Therefore there passed XXVIII years between. But truly *Joseph Scaliger* observe's here, from this careleſness in counting of years, that those are meer triflings which are found in the Latine. *And* hee saith, *they are so discovered by the Greek*, wherein wee read onely Αἰγινῆται ἐθαλασσοκράτησαν ἔτη Δ'. *The People*

[y] *Num.* 1058.

people of Ægina held possession of the Sea X *years.* Which truly wee finde as well in the former Chronicle of *Eusebius*, as in his Canon: nor is it otherwise placed then in the *Latine*. Also [z] *Strabo* and [a] *Ælianus* make mention of their Sea-Dominion.

[z] *Lib.* 8.
[a] *Var. Histor. lib.* 12.

Touching the Sea-Dominion *of the* Lacedemonians *and* Athenians. *Moreover also, that it was acknowledged not onely by the* Greeks, *but also by the* Persians, *in a Treatie of Peace.*

CHAP. XI.

NOr are those Particulars which are to bee applied hither out of the East, found onely in the Customs and Sea-Dominion of so many famous Nations thus continued one after another (the years of whose Empires have usually been reckoned from their subduing the Sea;) but in the Customs of others also, who truly were more famous, though they bee not registered any where in such a kinde of Catalogue. It is written of *Polycrates*, that renowned King of the *Samians*, who about the beginning of the *Persian* Empire, vanquished the *Lesbians* and *Milesians* in a Sea-fight, that hee so earnestly aspired after a Soveraigntie of the Sea, that it was manifestly acknowledged to bee capable of Dominion. *Herodotus* saith, *Polycrates is the first of those that wee have known, who had an intent to acquire the Dominion of the Sea unto himself, except* Minos *of* Crete, *and if there were any other that enjoyed the Sea before him.* Hee speak's,

I ſuppoſe, of Kings. For, thoſe *Greeks* in whoſe hands the Dominion of the Sea was (as wee before have ſhewn you) ſo often changed, were commonly govern'd either by a Popular, or an Ariſtocratical form of Government. Nor could *Herodotus*, I think, bee more ignorant of their Dominion, then of King *Minos*. For, hee lived after the fore-mentioned Dominion of the People of *Ægina* was ended, or about the *eightieth Olympiad*. Therefore, either hee ſpake onely of Kings, or was extremely miſtaken.

About the *eightieth Olympiad*, and the times following unto the *Grecian* Monarchie, thoſe moſt renowned People of *Greece*, not onely the *Athenians*, but the *Lacedemonians* alſo, did ſomtime enjoy a Dominion of the Sea flowing about them. *Demoſthenes* ſaith of the *Lacedemonians*, [a] *They had Dominion over the Sea and the whole Land.* Others alſo have teſtified as much. Concerning the *Athenians* either the ſame man, or *Hegiſippus*, in that Oration touching * *Haloneſos*, making mention of *Philip* K. of *Macedon's* affecting a Dominion of the Sea, ſpeak's thus, *De Prædonibus æquum eſſe aït Philippus &c?* **Concerning Pirates,** Philip **ſaith, it is mæt, that both hæ and you ſhould by common conſent, drive away ſuch as offend upon the Sea, requiring no other thing than this, that hæ may bee put in command over the Sea by you, and that you would confeſs your ſelvs unable to defend and guard the Sea** (which hitherto hath been yours) **without the help of** Philip. They did alſo by League impoſe a certain ſize and proportion upon all ſorts of Bottoms, both for qualitie and quantitie, which their neighbors ſhould have leav to uſe. It is an Article of the Treatie made with the

[a] *Philippic. 3. vide etiam Themiſtoclem. Epiſt. 14.*

* An Iſland in the *Ægean* Sea, now called the *Levant.*

the *Lacedemonians*; [b] *That the* Lacedemonians *and their Confederates might indeed uſe the Sea, but not ſail in a long ſhip, but any other kinde of veſſel; which beeing rowed with Oares ſhould not exceed the freight of five hundred Talents*: That is to ſay, not in a veſſel with one range of Oares, much leſs in one of two or three ranges; or others that were men of War, but in veſſels to bee rowed nevertheleſs with certain pairs of Oars, beeing veſſels onely for carriage, and thoſe ſmall enough. other paſſages of this kinde there are in *Thucydides*. Hereunto belong's that of *Æmilius Probus*, touching *Timotheus* a famous Captain of the *Athenians*. *Hee brought Corcyra* (ſaith hee) *under the command of the* Athenians, *and made the people of* Epirus, *the* Athamanians, Chaonians, *and all thoſe Nations which border upon that Sea, to bee their Confederates. Whereupon the* Lacedemonians *deſiſted from long contentions,* and of their own accord *yielded a pre-eminence of Sea-Dominion to the* Athenians, *and ſetled Peace upon this condition, that the* Athenians *ſhould bee chief Commanders at Sea. Which Victorie was received with ſo much joy among the* Athenians, *that Altars were then erected unto* PEACE, *and a Temple appointed for that Goddeſs.* And *Demoſthenes* concerning [c] *Archebius* and *Heraclides, who when they had deliver'd* Byzantium *to* Thraſybulus, *they made you* (ſaith hee, ſpeaking to the men of *Athens*) *Lords of the Sea, ſo that yee might ſell the Tenth*; To wit, the Cuſtoms *of the Merchandize of ſuch Merchants as ſhould trade in the Helleſpont*; which is noted there by *Ulpianus* the Rhetorician. From hence alſo, *Cicero* would have that barbarous Decree of this Nation to have had its riſe concerning the people of *Ægina* ſomtimes Lords of the Sea. [d] *The* Athenians, ſaith hee, *dealt very cruelly, who paſſed a Decree, that the* Æginetans, *who were power-*

[b] *Thucydides, lib.* 4.

[c] *Orat. adverſ. Leptinem.*

[d] *De Officiis lib.* 3. *ſic Valerius Maximus, l.* 9. *c.* 2.

ful in Shipping, ſhould have their thumbs cut off; to the end, that they might not grow ſtrong in Shipping hereafter, or by force enter upon that Sea then poſſeſſed by the *Athenians*: For, in ſom Books wee read, *quia claſſe valebant*, **becauſ they grew ſtrong in Shipping,** as it is noted by *Carolus Langius*. Though it bee conceived by [e] *Ælian* the Decree was therefore made, that they might not bee able to uſe a Spear, and yet to handle Oars. This crueltie is deteſted by Writers. But it is evident, that by this means they were deprived of a free uſe of the Sea. Nor was ſuch a Dominion of the Sea approved onely among thoſe people of *Greece*; but alſo by the *Perſians*, who at that time ruled the Eaſt, as appear's in that notable League made after the Victory at *Eurymedon*. For truly, *Cimon* Captain of the *Athenians* having vanquiſh't the *Naval* Forces of *Artaxerxes Longimanus* King of the *Perſians* (which had infeſted the Sea about the *Chelidonian* Iſlands) the King's courage was ſo broken, *That* (as [f] *Plutarch* ſaith, and [g] *Ariſtides* almoſt the ſame) *hee concluded that notable Peace, upon ſuch terms that hee was to keep the diſtance of an horſ-race from the Greek Sea, and that hee ſhould not have a Ship built long or beaked, within the* Cyanean *and* Chelidonian *Iſlands*. So that the King was to keep out of every part of the *Ægean*, *Rhodian*, *Carpathian*, and *Lydian* Sea, and that which bend's thence into the Weſt towards *Athens*: Becauſ the *Athenians* were clearly Lords thereof. For, the *Greek*, which of old was called the *Carick* * Sea, ſpread its ſelf to a very great latitude, from *Caria* or the ſhore of the Weſtern part of *Aſia*. Moreover, ſubjection was impoſed upon the Sea of *Pamphylia* and *Lycia*, as alſo the *Euxin* Sea, that no Ship of the King's which ſhould bee

[e] *Var. Hiſt. lib. 2. cap. 9.*

[f] *Ex Cratero in Cimonis vitâ.*

[g] *In Panathenaïcâ.*

* *Scholiaſt. lib. 1.* Adde *Dionyſ. Halicarnaſſ. lib. 1.*

bee long-built or beaked (that is to say, a man of War) could according to the League bee admitted, either in this beyond the *Cyanean*, or in that beyond the *Chelidonian* Islands. This certainly was the very meaning of [h] *Isocrates*, when making mention of the *Athenian* Dominion, hee saith, *it was not lawful to sail in long Ships or Gallies beyond Phaselis.* For, *Phaselis*, a Town either of *Lycia* or *Pamphylia*, is situate in the same direct line with the *Chelidonian* Islands. But *Suidas* tell's us, that *Castor Rhodius*, an antient Writer, had compiled an Historie περὶ τῶν θαλασσοκρατησάντων *of such as have enjoied a Dominion of the Sea* [i] Learned men are upon very good ground of Opinion, that those Lords of the Sea, reckoned up in the former Chapter, were taken by *Julius Africanus* and *Eusebius* out of that Autor. It is almost out of question too, that hee added the Soveraigntie both of the *Athenians* and *Lacedemonians* by Sea. *Castor* lived about the time of *Augustus Cæsar.* That work of his is utterly lost.

[h] *In Panathenaïco.*

[i] *Jos. Scaliger in Eusebianis ad num.* 840. *Gerard. Vossius de Historicis Græcis, lib.* 1. *cap.* 25. *Alii.*

Other Testimonies, which are found scatter'd up and down, touching the Dominion of the Sea, in the Customs *of the* Eastern Nations.

CHAP. XII.

MOreover, very many things are found scatter'd up and down in those Writings that concern the Customs of the Eastern Nations, which clearly prove it to have been a most received opinion touching private Dominion of the Sea. *Antiochus*

Epiphanes, King of *Syria* saith, speaking of the *Syrian* Sea, [a] *Are not both the Sea and the Land mine?* And *Xerxes* that *Persian* King, when in a ridiculous humor hee scourged the *Hellespont*, stigmatized it, and cast a pair of Fetters into the Waters, said, [b] Δεσπότης τοὶ δίκην ἐπιτιθῆ τήνδε, *Thy Lord inflict's this punishment upon thee.* Also, whereas *Agatharcides*, following the storie of *Boxus* the *Persian*, write's that the red or *Erythrean* Sea was so called from King *Erythras* or *Erythrus* (that is, from *Edom* bordering thereupon who also was [c] *Esau*, and signifieth the same that *Erythrus* or *Rubrus* doth in Ebrew) hee add's also this Exposition doth imply [d] κυριεύοντα τῆς θαλάττης ἀνδρα, *A man enjoying the Dominion of that Sea.* And truly wee read in [e] *Philostratus*, that there was an old contract touching the Red-Sea, *which King* Erythras *had contracted, when hee had Dominion over that Sea*, that no *Egyptian* ought to enter that Sea in a long Ship, but to imploy there onely one of Burthen. And [f] *Quintus Curtius* saith of the Citie of *Tyre*, that *beeing built by* Agenor, *shee made not onely the neighboring Sea, but what Sea soëver her Ships sail into, to bee of her Dominion.* From whence also *Tyria Maria, Tyrian Sea's*, became a [g] Proverb, to signifie a Sea so possessed, that free passage could not bee had, without leav of the Lord or Possessor. There was also a very antient Custom used in the East, that when great Kings having designs to bring any Nations under their power, commanded the pledges of Empire and Dominion to bee deliver'd to them, they were wont to demand *Water and Earth* together. That is to say, there quired them Φέρειν γῆν καὶ ὕδωρ, *to bring earth and water*, and ἑτοιμάζειν γῆν & ὕδωρ, *to prepare Earth and Water.* They conceived that their Dominion of the Sea as well as the Land, was signified by such a kinde

[a] *Joseph Ben. Gorion. lib. 3. cap. 12.* Edit. Munster. Ebræo-lat. in fol.

[b] *Herodotus, lib. 7.*

[c] *Jos. Scaliger ad Festum, verb. Æ gyptiños, & Nicol. Fuller, Miscellan. lib. 4. cap. 20.*

[d] *apud Photium, cod. 250.*

[e] *De vita Apollonii, lib. 3. cap. 11.*

[f] *De Rebus Alexandri, lib. 4.*

[g] *Afranius apud Festum, verb.* Tyria Maria.

kinde of pledg or token. Thus [h] *Darius* demanded Earth and Water from *Indathyrſus* King of the *Scythians*; Thus [i] *Xerxes* from the *Lacedemonians*; and thus both of them from the People of *Coos*, which is witneſſed by the *Coans* themſelvs in a publick Decree or Epiſtle, in anſwer to *Artaxerxes* his moſt imperious demand, that *Hippocrates* ſhould bee rendred up to him; wherein the *Coans* ſlighting the threats of that great King, decreed that what hazzard ſoëver they might ſeem to run, *Hippocrates* ſhould by no means bee rendred. They added alſo to that Decree [k] Καὶ γὰρ Δαρεῖος καὶ Ξέρξης ἀπὸ πατέρων &c. *How that when his Predeceſſors*, Darius *and* Xerxes, *had by their Letters demanded Earth and Water, the people of* Coos *did in no wiſe yield it; foraſmuch as they were ſatisfied, that thoſe who had ſent unto them were mortal, as well as other men.* And in the Greek Copies of the Hiſtorie of *Judith*, *Nabuchodonoſor* beeing about to denounce War againſt the neighbor-Nations, ſaith expreſly, the form of ſubmiſsion which hee expected was, [l] *that they ſhould provide for him Earth and Water.* Unleſs they conceiv themſelvs to bee Lords of the Waters as well as the Land, I do not well ſee wherefore they ſhould demand Earth and Water as tokens of univerſal Dominion. Moreover alſo, *Achmes Ben Seirim*, an *Arabian*, writing of the Sea ſaith, that according to the Doctrine of the *Indians*, *Perſians*, and *Egyptians*, in expounding of dreams, [m] *If any one* (in a dream) *ſeem to himſelf to bee made Lord of the ſea, hee ſhall bee heir of the whole Kingdom, and ſhall reign.* Add hereunto that Oracle of *Delos* concerning the Sea-Dominion of the *Athenians*. The men of *Athens* offering ſacrifice in *Delos*, a Boy that drew water to waſh their hands, poured Fiſh out of the pot together with the water. Hereupon this Oracle

[h] *Herodotus lib.4.*

[i] *Polybius, lib.9.*

[k] *Hippocrates, Epiſtol.9.*

[l] *Judith, cap. 2.7. Græcè.*

[m] *Cap. 178.*

Oracle was delivered by the Priests, ὡς κρατήσουσι θαλάττης, *That they should becom Lords of the Sea.* The Autor is one *Semus* an antient Writer in [n] *Athenæus*; where *Phylarchus* also relates, how that when *Patroclus*, a Captain of *Ptolomie*, the son of *Lagus*, had sent fish and fresh figs together unto King *Antigonus*, and those that stood by were in doubt what was meant by that present, *Antigonus*, said hee, himself very well apprehended what might bee the meaning of *Patroclus*: For, saith hee, either *Patroclus* mean's, [o] *That wee must get the Soveraignty or Dominion of the Sea, or elſ gnaw figs.* Or that hee must seem slothful and effeminate, or becom Lord of the Sea. Therefore hee made no doubt touching private Dominion of the Sea. And there also the Glutton in *Antiphanes* the Comedian saith, it is neither profitable for life, nor to bee endured, *That som of you should claim the Sea as peculiar to themselvs, and spend much monie upon it, but no victual for Navigation, not so much as a bit.* Add also that of *Theocritus*, touching the Dominion of *Ptolomeus Philadelphus* King of Egypt, over the Sea as well as the Land,

[p] Πολλᾶς δὲ κρατέει γαίης πολλᾶς δὲ θαλάσσης
Hee is Lord of much Land, and also of much Sea.

And a little after, hee speak's of the *Pamphilian*, *Lycian*, and the inner part of the remaining Sea, *that the whole Sea, and Land, and Rivers were subject to King* Ptolomie. Also, [q] *Philo Judeus* saith, let not Princes glory in that they have conquer'd many Nations, *or that they have brought all the rivers and Seas so exceeding vast both in Number and magnitude under their power.* Moreover, though *Isocrates* in his Oration con-

n *Dipnosoph. lib. 8.*

o Θαλάττοκρατεῖν ἡμᾶς ἢ τῶν σύκων τρώγειν

p *Jellio. 17.*

q *Lib. de plantatione Noë.*

concerning Peace ſeem's to hint, that the Sea-Dominion and Soveraignty, which the *Athenians* endevored to maintain, brought many miſchiefs upon them; and alſo that it ſomtimes occaſioned them to uſe Tyrannie againſt the Neighbor-Cities of Greece; yet hee diſpute's it as a thing that may com into examination, under the account of profitable and unprofitable, and by accident, of unjuſt; but hee doth not in anie wiſe endeavor to prove it unjuſt from the nature of the thing it ſelf. Yea, in another place hee ſufficiently commend's that Dominion, though not all things in preſerving it. And the ſame [r] Autor ſaith expreſly, of both Cities, the *Lacedemonian and Athenian*; *It hapned that both Cities did enjoy a Command of the Sea; which when either of them held, they had moſt of the other Cities obedient thereto.* Wee read alſo a diſpute in *Ariſtotle*, [t] *concerning a Communion or common enjoyment of the Sea*; to wit whether it may bee convenient or not for a well order'd City? whether it were better it ſhould remain common to all men, ſo that no man might in any wiſe bee denied paſſage, traffick, merchandiſe, and fiſhing; Or that the uſe of it may bee ſo reſtrained, that it might bee received into the Dominion of any Citie, ſo as to exclude forreiners? Hee diſpute's this point whether it bee profitable, or unprofitable; but queſtion's it not at all as unjuſt; having been abundantly inſtructed out of the Cuſtoms of the Nations round about, touching a propriety of the Sea as well as the Land. Alſo his Scholar *Alexander* the Macedonian, beeing victorious in the Eaſt, prepared for an expedition againſt Europe, *that Hee, might becom Lord of the whole Land and Sea*, as ſaith the Emperor [s] *Julian*. And truly among the People of *Greece*, eſpecialy ſuch as border'd

[r] *In Panathenaïce.*

[t] περὶ τοῦ κοινοῦ τῆς θαλάττης κοινωνίας.

[s] *In Oratione 3. ſeu Euſebiæ Encomio.*

upon the Sea, and others of that nature in the East, to hold ſupreme power and Soveraigntie above others, and to enjoy a Soveraigntie of the Sea, were accounted almoſt one and the ſame thing. Nor did they conceiv that could bee obteined without this. From whence aroſe that Council of *Themiſtocles*, which *Pompey* the great alſo followed at Rome; [u] *Qui mare teneat, eum neceſſe eſſe rerum potiri &c.* **Hee which can poſſeſs the Sea, muſt needs have Command of all.** So alſo ſaith *Iſaac* [w] *Caſaubon* upon *Polybius*; *To have Dominion of the Sea (which is expreſſed by the Greeks* Θαλασσοκρατεῖν*) is wholly, and ever hath been a great ſtrengthning, and as it were a pledg of extraordinarie power. Therefore, the old writers of Chronicles, among the* Grecians, *ſeeing before the inſtitution of the* Olympiads, *there was no Sovereign power of any People of* Greece *in beeing, upon whoſe actions a knowledg of times might bee grounded, therefore among the other times that they made uſe of for the computing of times, they omitted not that particular, but carefully kept an accompt of thoſe* People, *who had once enjoyed a Dominion of the* Sea, *and they exactly obſerved in their Chronologies all ſuch changes as hapned in that matter.* But you have more then enough touching thoſe Cuſtoms that have been received in the *Eaſt*, about the Dominion of the Sea.

[u] *Cicero ad Atticum, lib. 10. Epiſt. 7. Plutarch. in Themiſtocle.*

[w] *Comm. in Polybium pag. 199.*

Of the Spinetans, Tuſcans, Carthaginians, *and other Lords of the Sea in the* Weſt.

Chap. XIII.

NOr is ſuch a Dominion of the Sea, as I have mentioned, leſs clear and evident, in the antient Cuſtoms of the Weſtern Nations. The *Spinetans*, ſo called from the City *Spina* ſituate near the entrance

entrance of the River *Po*, were a long time Lords of the upper or *Adriatick* Sea, beeing wont to send very liberal Tenths out of their profits by Sea, to *Apollo* at *Delphos*. So saith [a] *Strabo* and [b] *Dionysius Halicarnass.* Who write expresly in like manner of the *Tuscans*, that they were Θαλατοκράτορες, in command of the lower Sea, or that which washes the South-Coast of *Italy*; that is in plain terms that they were *Lords of the Sea*. And [c] *Diodorus Siculus* saith, the *Tyrrheni* (or *Tuscans*) *possessing the Sea a long time as Lords, called it by their own Name.* But afterwards, the [d] *Carthaginians* became Lords of almost the whole *Mediterranean*, which is more westward, to wit of the *Sicilian* and *African* Sea; who beeing overcom in battel, *Agathocles* King of *Sicily* enjoied the same power for som time; from whom the People of *Africa* revolting, that Dominion was soon restored to the *Carthaginians*. These things were don in CXVIII *Olympiad*. Then, for 40. years or thereabout, the *Carthaginians* continued Lords of the Sea, and gave Laws thereto; that is to say, until the fist *Punick* War, whch began in the last year of the CXXVIII *Olympiad*. So also *Polybius*, [e] *The* Carthaginians *enjoying the Dominion of the Sea without controversie.* And a little after; *The* Carthaginians *enjoyed the command of the* Sea *without all controversie, as received from their Ancestors.* But the *Carthaginians* enjoyed the same, even long before the time of *Agathocles*, as it sufficiently appear's by that League of all that was made first of all betwixt them and the *Romanes*, at the beginning of their *Consuls*, or about the sixtie eight *Olympiad*. One Article thereof is in *Polybius*, who onely mention's it to this effect; *That neither the Romanes nor their Confederates were to sail beyond the* * *fair Promontorie, unless driven by Tempest, or forced by enemies.* That was a Promontory

[a] *Lib.* 5.
[b] *De Orig. Rom. lib.* 1.
[c] *Biblioth. l.* 5. πολλὰς χρόνους θαλατοκρατήσαντες.
[d] *Diodorus Sic. lib.* 20.
[e] *Histor. lib.* 1. & 3. Adde *Appian. Alexandrin. sub. Initiis Belli Punici.*
* *A Promontorie of Africa, near Car-*

promontorie of *Africa*; and the *Carthaginians* were so far Lords of the Sea, that they would not permit the *Romanes* or their Confederates, to sail beyond that Promontorie: which the *Romanes* themselvs acknowledged to bee just in the *League* that they made. But in the second *League* or Treatie of Peace betwixt these famous Nations in the West, it was farther provided; that no *Romane* should touch either upon *Africa* or *Sardinia*, unless it were either to take in Provision or repair their Ships, as you may see also in *Polybius*: so that the use of the Sea was taken away, or restrained. And hereunto belong's that of [f] *Pompeius Festus*, touching the *Pæni* or *Carthaginians*; *The* Carthaginians *having their original from* Tyre, *were so powerful at Sea, that Navigation was hazardous to all men*; For, the *Carthaginians* were the chief of the *Pæni*. Moreover, [g] *Julius Cæsar* writing of the *Veneti* a people of *Western Gallia* about the entrance of the River *Loire*, and of old very industrious in Sea-affairs above their Neighbors, saith, *That in a great and open current of the Sea, having but a few Ports lying here and there which are in their possession, they make almost all men pay Custom, that were wont to use the same Sea.* Tribute was paid to them as Lords, for the use of the neighboring Sea. Nor must wee pass by that here, which [h] *Paulus Warnfredus* relate's of *Autharis* King of the *Lombards*. There was a Pillar placed within the very waters of the Sea, which wash the City of *Rhegium*. *To that Pillar* (saith Warnfredus) *King* Autharis *came on horse back, and touched it with the point of his spear, saying, even in this place shall bee the bounds of Lombardie.* But wee must treat next concerning the people of *Rome*, the most noble precedent of all both for Law and Custom.

[f] *In verbo*, Tyria Maria.

[g] *De Bello Gallico, lib. 3. cap. 8.*

[h] *De Gestis Longobardorum lib. 2. cap. 33. quod memorat etiam Sigonius de regno Italiæ, lib. 1.*

The

The Sea-Dominion of the people of Rome, *and of such as followed their Customs in the* Eastern Empire.

CHAP. XIV.

BEfore the first *Punick* War, the *Carthaginians* and the *Romanes*, both strove with equal Forces and affections for the Empire of the World; save that they of *Carthage* seemed the more potent, by reason of that Dominion of the Sea by them held so many years. But then *C. Duillius* beeing made General of a Navie of CLX Ships, riding at Anchor, and arm'd within sixtie daies after the wood had been cut, almost undid *Carthage* in that Sea, and wholly reduced it under the *Romane* power. And *Florus* saith, [a] *when the Sea and the Isles were taken away, it shamed that noble Nation to pay Tribute, who were wont to command it.* So, the *Carthaginians* beeing deprived of this kinde of Dominion, the *Romanes* got it by the Law of Arms and Victorie; so great and so constant honor beeing, for this cause, paid to so renowned a *General*, that Minstrels were ever sent to make him musick after Supper, and a Torch was carried before him. Moreover, both the *Phœnicians* and *Cilicians* had Dominion over the *Romanes* Sea, as appear's by the League made betwixt them and *Antiochus* King of *Syria*; wherein it was thus provided: *That* Antiochus *should surrender his long ships and their warlike furniture; and not have more than ten nimble Gallies (none of which should bee rowed with above thirty Oares) nor so much as a Galley with one range of Oares when hee shall have any occasion*

[a] *Lib. 2. cap. 6.*

casion to make a War. Nor should hee sail on this side the Promontories of Calycadnus *or* Sarpedon; *unless it bee a ship imploied to convey money, pay, or Embassadors, or Hostages.* So saith [b] *Livie.* But wee read in Polybius, *Nullam habeto triginta remis actam navem,* **Let him have no Ship rowed with 30 Oares.** In like manner *Hannibal,* in a speech made unto *Scipio,* saith thus, [c] *Wee deny not, but that all those places are yours for which the War hath been undertaken,* Sicilie, Sardinia, Spain, *and all the Isles contained in the whole Sea, betwixt* Africa *and* Italie. *And may wee* Carthaginians, *that are confined within the shores of* Africa, *see you (when it so pleaseth the Gods) ruling foreign Dominions by Land and Sea.* And a little after, the Peace beeing agreed, five hundred Ships of the *Carthaginians* that were rowed with Oars, were by them seized and burnt. To wit, that they might not use the Sea, which was then to bee in the Dominion of others. Afterwards also, the Senate of *Carthage* was chastised, [d] *becaus they had an Army, and materials for shipping, (contrary to the League: And it was decreed, that War should bee proclaimed against them, becaus they had caused their Armie to march beyond their bounds, &c.* Also, *Plinie* saith expressly concerning *Pompey* the great; [e] *That hee freed the Sea-Coast from Pirates, and restored the Dominion to the people of* Rome. Moreover, as touching the vast Sea-dominion of the *Romane* people, *Dionysius Halicarnas* saith; [f] Rome *is Ladie of the whole Sea, not onely of that which lie's within* Hercules's *Pillars; but also of the Ocean it self so far as it is navigable.* This is indeed an *Hyperbole*; But in the mean time a clear Testimonie of a very large Sea-dominion. As also that of [g] *Appianus Alexandrinus*; *The* Romanes (saith hee) *hold the Dominion of the whole Mediterranean Sea.* Other instances there are of the same nature. But truly, that expression of a very [h] eminent

[b] *Decad. lib.* 8.

[c] *Livie, lib.* 30.

[d] *Epit. Liv. lib* 48. & 49.

[e] *Nat. Histor. lib.* 7. *cap.* 26.

[f] *Orig. Rom. lib.* 1.

[g] *In præfatione.*

[h] eminent man is not to bee admitted, who saith of examples of that kinde, *that they do not prove a possession of the Sea or of a Right of Navigation. For as particular private men, so also people and Nations may by Leagues and Agreements, not onely quit that Right which peculiarly belong's to them, but that also which they hold in common with all men, in favor and for the benefit of any one whom it concern's.* And for this hee referr's himself unto *Ulpian*, who will have that Cessation of fishing for *Tunies* in the Sea (of which more * hereafter) to bee derived from the Autoritie of som stipulation or Covenant, not from any vassalage imposed upon the Sea. Surely by such a kinde of distinction, whereof *Ulpian* is indeed the Autor, the same may bee said either of Dominion or vassalage (as wee call it) of every kinde. If to occupie and enjoy in a private manner, by Right to hinder, and forbid others, bee not Dominion, it is nothing. Moreover *Cassandra* in *Lycophron*, propheſied that the people in *Rome* should have such a Dominion, where shee attribute's to them

[h] *Hugo Grotius, de Jure Belli & pacis lib. 2. cap. 3. §. 15. Possunt enim ut singuli, ita & populi, &c.*

* *In capite proximo.*

Γῆς ϗ θαλάσσης σκῆπτρα ϗ μοναρχίαν.

The Scepter and Monarchie both of Land and Sea.

Hereunto belong those things above mentioned, touching the Command of *Pompey* held by Commission from the people of *Rome*, as also those other which wee meet with now and then among writers, concerning the Sea-Dominion of the *Romans*. *Suetonius* saith of *Augustus Cesar*, [i] *Hee placed one Navie at* Mesinum *and another at* Ravenna, *to guard the upper and lower Sea.* But [k] *Aristides* saith this Dominion was not limited to the *Romans* by certain Bounds (as of old to the *Athenians*) but that it incompassed their Empire round like a girdle. And *Themistius* speaking of the Emperor *Theodosius*

[i] *In Augusto, cap. 49.*

[k] *In Romæ encomio.*

Theodosius the elder, saith; [l] *what would you say of him, who is Emperor or Ruler of almost the whole Earth and Sea.* In like manner, *Procopius* making mention of a Statue of a Romane Emperor, holding a Citie in his left hand, saith, that the Statuarie's meaning was, [m] *that the whole Land was subject to him, as well as the Sea.* To the same purpose speak's *Nicephorus Callistus* in the Preface to his Ecclesiastical History. And [n] *Julius Firmicus*, speaking of such persons who have in the Schemes of their Nativities, the *Moon* encreasing in the thirtieth Degree of *Taurus*, fortified with a friendly Aspect of *Jupiter*, saith, *they shall possess the Dominions of Sea and Land, whithersoëver they lead an Armie.* *Oppianus* saith to the Emperor *Antoninus*,

Orat. 5.

[m] *De ædificiis Justiniani, cap. de Augustæo.*

[n] *Matheseos, lib. 6. cap. 1.*

[o] *Halieutic. lib. 3.*

—— [o] Σοῖς μὲν γὰρ ὑπὸ σκήπτροισι θάλασσα
Εἰλεῖται καὶ φῦλα Ποσειδάωνος ἐνάυλων,

Under thy Laws or Scepter the Sea role's,
And Fishes swim throughout thy Sea in sholes.

And *Venus* to *Jupiter*, concerning the future Empire of the Romanes

[p] *Certè hinc Romanos, olim volventibus annis,*
Hinc fore ductores, renovato sanguine Teucri,
Qui Mare, qui Terras omni ditione tenerent,
Pollicitus: quæ te, genitor, sententia vertit?

[p] *Virgil Æneid. 1.*

Hence Romans their Original should take
In after-years, thou once didst promise make,
And Leaders spring, to rule both Land and Sea,
From Teucer's bloud: What alter's thy decree?

From

From whence the same Poët, in another place, speak's of *Augustus Cæsar*,

[q] *An Deus immensi venias Maris, ac tua Nautæ*
Numina sola colant; tibi serviat ultima Thule,
Teque sibi generum Tethys emat omnibus undis.

[q] *Georgic. lib.* 1.

——* Or whether thou the God wilt bee
Of the vast Sea, and Thule's farthest shore,
Or thee alone the Sailors shall adore,
As Thetys Son-in-law with all her Seas
Given for a dower, &c.

* Translated by my worthy friend *Thomas May.*

And *Claudian* of *Scipio Africanus*,

[r] *Ergò seu patriis primævus Manibus ultor*
Subderet Hispanum legibus Oceanum.

[r] *Præfat in lib.* 3. *de Laudibus Stilichonis.*

Then whether in revenge to's Father's ghost,
Hee quell'd the Sea upon the Spanish Coast.

Or what other businesse soêver hee did, *Ennius* was still at his elbow. In like manner, *Constantinus Monomachus* is, by *John* Bishop of *Euchaïta*, in his Iambicks, called indeed Emperor of the *East*; but according to the custom of the *Western* Empire,

Γῆς καὶ θαλάσσης Κύριος καὶ δεσπότης,
Lord and absolute Soveraign both of Land and Sea.

As also the Emperor *Leo* by *Varadatus*, [t] *Terræ Marisque Dominus*, **Lord of the Land and Sea.** So that in the Empire of *Constantinople*, which followed the Customs of the *Western*, the *Ægean* Sea it self was reckoned among the Provinces, no otherwise then *Samos*, *Cyprus*, or other Islands or Territories of any kinde whatsoëver. This appear's out of [t] *Constantinus Por-*

[t] *Concil. Chalced. part.* 3. *Tom.* 2. *part.* 1. *Edit. Binianæ.* 1618.

[t] *Lib.* 1. *Them.* 17.

Porphyrogennetus his *Themata*, where also the *Hellespont* is expresly assigned to the Commander in chief of the *Ægean* Sea, together with the Territories lying round about. And truly the Customs out of this Sea were very great, onely upon the accompt of Fishing. Sometimes ten, somtime twelv thousand Crowns, were collected out of it yearly. Wee learn this also out of a Decree, whereby *Andronicus Palæologus*, one that kept the State of an Emperor, but lived a chambering idle life within his Palace, had for the victualling of himself and his retinue, the *yeerly profit of the fishing before* Constantinople, *wont to bee valued at that time, at ten thousand Crowns*, as saith, [u] *Nicephorus Gregoras*. The same is by som called *Topiaticum*, [x] *Topicum*, It is named also *Piscinica* and *Topice*. Moreover, in the servey or breviarie of the Dignities of the East, onely three Provinces are reckoned under the *Proconsul of Asia*, after this manner:

[u] *Lib. 9.*

[x] *Vide J. Cantacuzenum, hist. lib 2. c. 1. Et lib. 4. cap. 42. præter Jo. Meursium in Glossario, verb.* τοπικὸν *Et Jul. Cæs. Bullinger. de Imperio Romano, lib. 9. cap. 72.*

These Provinces under-written are under the charge of that eminent person the Proconsul of Asia.

Asia;
The Isles;
Hellespont.

Also, *the Office of the Consular Governor of Hellespont* is mentioned in the Decree of the Emperors [y] *Honorius* and *Thedosius*, where it is transferr'd out of the power of the *Deputie* of *Asia* into that of the *Proconsul* of *Asia* (who at that time was *Simplicius*.) In another place also, in the Novels of *Justinian*, wee finde *Hellespont* joyned with * *Pontus Polemoniacus* by the name of a Province or Lievtenantship. I know indeed

[y] *L. unic. C. de Officio Comitis sacri Patrimonii.*

* So called from *Polemium* a City of *Cappadocia.*

indeed that *Helleſpont* is taken here by learned men, not ſo much for that narrow Sea which divide's *Europe* from *Aſia*, as for the Sea-coaſt of *Aſia*. So [z] *Guidus Pancirollus* upon the *Breviarie*. *In this place* (ſaith hee) *that Countrey of* Aſia *is ſignified which is ſituate near the the ſhore of Helleſpont.* Certainly, it is ſeldom enough I ſuppoſe, that wee finde the name of *Helleſpont* uſed elſwhere for any Countrie of [a] *Aſia*, but rather *Helleſpontia*. But if not the narrow Sea it ſelf, but a Countrie of the ſame name were deſcribed in the *Breviarie*, wherefore then is this Countrie onely ſo remarkably named with *Aſia*, whereof it ſelf could bee but a ſmall part? If you take it for that very Sea, the matter is evident, and ſeem's to agree very well with it ſelf. It is moſt conſonant to reaſon, that the ſpatious Province of the *Proconſul* of *Aſia* was denoted by *Aſia* it ſelf, the neighboring narrow Sea, and the Iſles; Not thus, by *Aſia* it ſelf and the *Iſles*, adding moreover I know not what pettie Countrie, obſcure enough, and ſuppoſed alſo to bee a part even of *Aſia*. Alſo the Cuſtom of the following Age ſeem's to interpret a more antient Government in this place. The very *Ægean* Sea (which comprehend's almoſt all this neighboring Sea) is expreſly number'd by the aforeſaid *Conſtantinus Porphyrogenitus*, among the Juriſdictions, Lievtenantſhips, or Provinces of the Eaſt. His words are, [b] *But the Ægean Sea it ſelf alſo is reckoned among the Provinces.* And a little after alſo concerning the Iſles, he ſaith, *There belong to the command or Government of the Ægean Sea the Iſles called* Cyclades, *and the moſt eminent of the* Sporades, Mytilene, *and* Chios, *and* Lemnos *it ſelf.* So that the Iſles and the Sea it ſelf might bee conteined here, as particular parts of the Government or Province, as well as any other Regions whatſoêver. Moreover, it is to bee obſerved out of the *Notitia* or *Breviarie* of the

[z] *In Notitia Orient. cap.* 102.

[a] *Vide Ortelium in Theſauro Geograph, verb. Helleſpont.*

[b] *Lib.* 1. *Them.* 17.

Eaſt, that in the *Badges* or ſignal *Ornaments* of the *Proconſul* of *Aſia*, which were uſually painted in that Commiſsion whereby hee was eſtabliſhed in his Government, there were contained (beſides the *effigies* of the Princes, and the Book of inſtructions) repreſentations of *three women*, ſet forth alike with towred Diadems on their heads, according to the patern which wee ſhall preſent you with by and by, repreſenting thoſe three Provinces together, to wit, *Aſia*, the *Iſles*, and *Helleſpont* in ſuch a manner, and ſo remarkbly noted by an addition of their names, that there is not the leaſt ſhadow of Reaſon, why wee ſhould grant the laſt to have been a part or Region of the firſt. I thought fit alſo, to add here *Pancirollus* his deſcription of thoſe Pictures or Repreſenſentations, who hath made uſe not onely of the printed Books of the *Breviarie*, ſet forth by *Alciatus* (from whom wee have taken the Figure) but alſo of the Manuſcripts of *Fulvius Urſinus* and others. This *Proconſul* (ſaies Pancirollus) *underneath the Book of Inſtructions, hath the pictures of three women which repreſent the Provinces committed to their charge, to wit,* Aſia, *the* Iſles, *and* Helleſpont, *as the Inſcriptions of their names upon them do ſhew. Theſe bear a kinde of royal Ornament on the head* (the printed Books ſay, each of them had a towred Diadem) *and veſſels full of coin in their hands, which ſignified that the levying of Tributes in thoſe three Provinces, belong'd to the* Proconſul. *They were apparell'd alſo in long garments of Gold. The Manuſcripts ſay they have white or skie-colour'd.* Aſia *weareth ſhoos or Sandals and a skie colour'd Mantle; The other are without ſhoos: Shee which repreſent's the* Iſles *weareth a purple Mantle; Shee which repreſent's* Helleſpont *a green one. But in the Book of* Urſinus, *they are all ſhod high with red Buskins, not differing in their habit. In* Mandruci-anus *they are ſet forth in long garments, which almoſt cover their feet.* Thus far hee. And now judg yee, whether it bee likely

ly or no, that any pettie Countrie of *Aſia* ſhould bee ſet forth in theſe Ornaments in an equal ſtate and majeſtie with *Aſia* it ſelf, ſeeing even this had comprehended that alſo, no otherwiſe then the whole doth the ſmalleſt part.

Their towred *Diadems*, equal Stature, majestie and wealth not differing at all, seem to point out such an equalitie, that neither of them, can appear, by this form of description, to bee reckoned a part of another. And so, that *Hellespont* cannot in that place bee any other then the Sea it self, or that Arm of the Sea flowing between; which being thus joyned with the *Isles* to the Proconsulship of *Asia*, upon one and the same account of Dominion, the Provinces of *Asia* and *Europe* became in a civil sens, either continual or contiguous. Yea, when there was no such distinction of Provinces, the adjacent Isles and the Sea it self, made one entire Provincial bodie also with the continent. And hence it came to pass that the Isles of *Italy* were [c] part of *Italy*; as also of every Province; and such as were divided from *Italy* by a small arm of the Sea, as *Sicily*, they [d] were to bee reckoned rather among the Provinces of the Continent. The Seas lying between did not hinder, but that one continued Territorie might bee made of the continent and the Isles. And that also by the Autoritie of *Ulpian*, who notwithstanding useth to say, that the Sea is common to all men. But of this hereafter in our Answers to the *Objections*. The same *Ulpian* also in another place saith, [e] *Si quis me prohibet in mari piscari, vel everriculum, &c.* **If any man forbid's mee to fish in the Sea, or to draw a Drag-net** (which the Greeks call σαγήνη) **may I sue him or no at Law upon an action of Trespass?** *Som there are of opinion that I may sue him upon a Trespass*; So Pomponius, *and many others say, hee is in the same condition with him that hinder's one to wash in a publick Bath, or to sit in a publick Theatre, or to act, sit, and converse in any other place, or put case, there bee any one that permit's mee not to use that which is my own. But the Antients allowed an Interdict to him that hired*

[c] *L. 9. ff. tit. de Judiciis, de quâ vide J. Gryphiand. Tract. de Insulis, cap. 15.*

[d] *L. 99. ff. de verb. signif.*

[e] *L. 13. §. si quis ff. tit. de Injuriis.*

hired the Sea, if ſo bee hee hired it in a publick manner. For, force by that Interdict is allowed, that hee may enjoy what hee hath hired. Therefore the Sea, becauſ it was poſſeſſed by the people, was reckoned among publick things; that is, thoſe things which are proper and peculiar to the people of *Rome*, not common to all men, after another manner then publick Baths, Theatres, and other things of that kinde. And what doth to hire in a publick manner ſignifie in this place, but to becom a hirer or *Conductor* of the Sea, as the people was Lord thereof and Letter or *Locator*? I ſuppoſe no man doth affirm, that any thing may bee let for Rent or hired, which may not ſo belong to one man, that can not bee anothers. But becauſ publick Places, by the * *Civil Law* do ſerv for the uſes of [f] private perſons, therefore *Pomponius* and others were of opinion, that there might have been here an action of Treſpaſs. Moreover, it was an Edict of the *Prætor*, *That you do nothing in a publick place or caſt any thing into it, whereby it may bee endamaged.* Hereupon *Ulpian* ſaith [g], *againſt that man who hath caſt a Dam or Pile into the Sea, an Interdict is allowed him who perhaps may bee endamaged thereby. But if no man ſuſtain damage, hee is to bee defended who build's upon the ſhore, or caſt's a Pile into the Sea. If any man bee hinder'd from fiſhing or Navigation by Sea, hee ſhall not have an Interdict; nor hee likewiſe, who may hee reſtrained from playing in the common Field, or from waſhing in a publick Bath, or from beeing a ſpectator in a Theatre. But in all theſe Caſes hee muſt uſe an Action of Treſpaſs.* Therefore a Prohibitorie Interdict or Decree was to bee uſed, when dams were caſt into the Sea no otherwiſe then when damage was don to a Theatre, Bath, Court, or any publick place whatſoëver. To theſe things, which manifeſtly belonged to the people of *Rome*, and were

* *Roman.*

[f] *L. 2. ff. Ne quid in Loco. §. 2.*

[g] *Loc. citat. §. 8. & 9.*

were not common to all men, is the Sea everie way compared, even by *Ulpian* himself. There is also the same account made of the shores and Sea [h] by those that speak for a Communitie of the Sea. Nor are they said to bee less common by [i] som, who treat of them apart, as by *Neratius*, and *Ulpianus*. But [k] *Celsus* saith *I think those shores do belong to the people of* Rome, *over which the people of* Rome *have dominion.* But that which follow's there, *that the use of the Sea is common to all as the Aër, and that the Piles cast into it belong to him that cast them*, is plainly qualified, and manifestly restrained to the manner of the Dominion of the people of *Rome*, in the words immediately following, where *Celsus* saith, *That is not to bee granted, in case the use of the shore or Sea may by that means becom the worse.* Certainly, if the former words were meant of such a Community or enjoyment common to all men, as would not in any wise permit the Dominion or propriety of a particular person, what mean's that then, *that the use may becom the worse?* For, if a place should becom the proprietie of him that doth possess it, in the same manner as that which had before been possessed by no man, and no regard should bee had here of the Dominion or Right of another, then it would bee no less lawful for him that should possess it, to make the use thereof the worse to others for the benefit of himself, then for him that shall settle in a Field that never was seized yet in the possession of any. Therefore, *Celsus* would have the Shores and Sea so to belong to the people of *Rome*, that the condition of them, as serving the uses of all private persons (and that, as hath been said, according to the * Civil Law, and such qualifications as are added out of the Edicts of the *Prætors*, and the like) could not without injury bee made

[h] *Institut. de Rer. Divis. § litorum. Marcianus, l. 2. ff. de Divis. Rer.*

[i] *L. 14. ff. de Acquir. Rer. Dom. l. 13. ff. de Injuriis. § 7.*

[k] *L. 3. ff. Ne quid in publico loco.*

* *Roman.*

made worſe, to the prejudice of the Commonweal. Of the ſame minde is *Scevola*, [l] *That by the Law of Nations men may build upon the ſhore, if the publick concernment do not hinder.* And *Ariſto*, [m] *quod Mari occupatum eſt fit publicum*, **that which is poſſeſſed in the Sea becom's publick**. It paſſeth into the patrimonie of the people of *Rome*; for ſo the word *Publicum* **Publick** doth ſignifie; which the Greek Lawyers term δημόσιον or *that which belong's to the people*, not equally common to all men; by whom alſo the Sea it ſelf is [n] in that ſenſ called *Publick*. Other Inſtances there are of the ſame nature: Whereby it is made manifeſt, as well out of the determinations of Lawyers, as the Tranſcripts of Leagues and Treaties, and the writings of Hiſtorians, Orators, and Poëts, that a Dominion of the Sea was in uſe among the *Romans*, after the ſame manner as the Land.

[l] *In litore, jure gentium ædificari niſi uſus publicus impediret. L. 4. ff. nè quid in loco publico.*

[m] *L. 10. de rer. diviſione.*

[n] *Gloſſæ vet. juris verb.* Δημόσιον.

The Dominion of the Sea, as it belonged to private perſons *under the* Roman *Empire, together with that* Sanction eſtabliſhed in the Eaſtern Empire; *whereby the perpetual community of the Sea which was pretended to by ſom, beeing utterly aboliſhed as a* thing unjuſt, *the Dominion even of* private perſons *therein is aſſerted.*

CHAP. XV.

WHat hath been delivered in the fore-going Chapter, touching the Dominion of the Sea,

hath relation to the Dominion of the whole bodie of the *Romane* people, that is to say, to the publick patrimonie of the State, wherein a private Dominion is proved, no leſs then in that of particular perſons. Moreover, there are to bee found among the *Romane* Cuſtoms, very ample teſtimonies to prove that a proprietie in the Sea hath been inſtated alſo on particular men; ſuch, to whom either the people or Emperor of *Rome* according to the Civil Law and Cuſtom of the *Romanes*, demiſed, rented, or made a grant of any part of their Sea within the Empire. The rich and more magnificent ſort of Citizens, for the conveniencie of larger Fiſh-ponds, bringing the Sea into their grounds, made it their own, and became Maſters thereof with as good a Title as they had to their adjacent Land. *There beeing* (ſaith [a] *Varro*) *two kindes of Fiſh-ponds, one of Freſh, the other of ſalt water; the former ſort are ordinarie and little worth, ſuch as our Countrie Fiſh-ponds that are ſupplied with water by little ſtreames; but thoſe ſalt-water-Ponds are to bee found in the poſſeſſions of Noblemen, and are ſupplied by the Sea as well with Fiſh as water; yet they yield more delight then profit, the filling of thoſe Ponds beeing commonly the draining of the Owners purſ.* Now what was this, but to becom proprietaries of the Sea, ſo far forth as it was derived, or incloſed in their poſſeſſions?

[a] *De re Ruſtica, lib. 3. cap. 17.*

And [b] *Columella*, who lived in the time of *Claudius*, relate's that the *Romanes* in antient times for the moſt part uſed none but in-land Fiſh-ponds, ſtoring them with Spawners of the larger ſize; preſently adding; *Not long after that good husbandrie was laid aſide, when the wealth and luxurie of the ſucceeding age made incloſures of the Ocean and Seas themſelvs.* And the yearly

[b] *De re Ruſticâ, lib. 8. cap. 16. & 17.*

yearly Revenue of ſuch Demains, which bordered upon the Sea, was advanced by thoſe Ponds or Incloſures of the Sea as well as by any Lands, Lakes, or Vineyards appertaining thereunto. The ſame *Columella* diſcourſing hereupon, hath this paſſage, *But ſeeing the cuſtom of the times hath ſo far prevailed, that theſe things are not onely in uſe, but have gotten the reputation of magnificent and noble contrivances, wee alſo, leaſt wee ſhould ſeem moroſe and importune reprovers of ſo long and ſettled a practice, will ſhow what profit may redound from them to the Lord of the Manor; how hee may raiſ an incom by the Sea, if having made a purchaſe of Iſlands or Lands bordering upon the Sea, hee cannot reap the fruits of the Earth, by reaſon of that barrenneſs of the ſoil which uſually is near the Shore.* So that wee ſee the Revenues of a Manor were improved by managing the Sea, as well as Land; and the Poſſeſſor was counted Lord of the one no more then of the other.

This uſual right of Dominion over the Sea is mentioned alſo by [c] S[t] *Ambroſe*; *For the ſerving of their prodigious luxurie* (ſaith hee) *the Earth by digging of channels is forced to admit the Ocean, for the making of artificial Iſlands, and bringing litle Seas into their own poſſeſſions. They challenge to themſelvs large portions of the Sea by right, and boaſt that the Fiſhes, like ſo many bond-ſlaves, have loſt their former libertie, and are ſubjected to their ſervice. This Creek of the Sea* (ſaith one) *belong's to mee, that to another; Thus great men divide the Elements among themſelvs.*

[c] *Hexaëmer. lib. cap. 5. 10. & lib. de Nabuthe cap. 3.*

For Examples, there are the Fiſh-ponds of *Lucullus*; famous for his expenſiveneſs in this kinde: Hee, having made way through a Mountain near *Naples*, incloſed the Sea and became maſter of thoſe water-courſes which [d] *Plutarch* call's *Sea-Courſes and Chaſes for the*

[d] *In Lucullo.*

breeding of Fish. Whereupon *Pompey the Great, in merriment* (saith [e] *Paterculus*) *was wont to call* Lucullus *the* * *gowned* Xerxes, *in regard that by damming up of Chanels and digging down Mountains, hee took the Sea into the Land. The same* Lucullus (saith [f] Plinie) *digging down a Mountain near* Naples *at greater charge then hee built his Villa, took an arm of the Sea into his Manor, which gave occasion to* Pompey *the Great, to call him the gowned Xerxes.* The same conceit in *Plutarch* is attributed to *Tubero* the Stoick. That concerning *Xerxes* is very famous

[e] *Histor. lib. 2.*

* *Xerxem togatum.*

[f] *Plin Nat. Histor. lib 9. cap. 54.*

[g] *Epigramm. Vet. lib. 2.*

[g] *Hoc terræ fiat; hâc Mare, dixit, eat:*

Here run the Sea, hee said;
There, let firm Land bee made;

When hee commanded the Sea to bee brought round about the Mountain *Athos.* [h] And *Valerius* saith of *Caius Sergius Orata, That hee might not have the serving of his palate depend upon the pleasure of Neptune, hee contrived Seas of his own, intercepting the waves with his trenches, and so incloſing divers ſholes of Fiſhes with dams, that what tempeſtuous weather ſoëver happened,* Orata's *Table was never unfurniſhed with varietie of Diſhes.* The ſame libertie was uſed upon the *Formian* ſhore by *Apollinaris*, of whoſe Fiſh pond *Martial* [i] ſpeak's,

[h] *Lib. 9. cap. 30.*

[i] *Lib. 10. Epigr. 30.*

Si quando Nereus ſentit Æoli regnum,
Ridet procellas tuta de ſuo Menſa,
Piſcina Rhombum paſcit, & Lupos vernas.

When Winds do Lord it o're the Sea, & fright
The Fiſher, his Table laugh's at their ſpight;
By its own private ſtore ſecur'd from need,
While captiv'd Pikes and Turbot's Fiſh-ponds breed.

All

All the varietie of Fiſh which the wider Sea afforded, *Apollinaris* had readie at hand in his Fiſh-pond; which was nothing elſ but the Sea let in from the ſhore into his poſſeſsion.

Contracta piſces Æquora ſentiunt,
Jactis in altum molibus.——

Such dams are caſt into the main,
The Fiſh for want of room complain.

So ſaith *Horace*: and in another place,

[k] *Cæmentis licèt occupes*
Tyrrhenum omne tuis Mare Ponticum.

k *Lib.3.od.1. & 24.*

——though thou thy Walls do raiſ
Through all the Tuſcan and the Pontick Seas.

And ſaith *Saluſt*; [m] *To what purpoſe, ſhould I relate thoſe things which cannot ſeem credible to any, but thoſe who have been eie-witneſſes; how Mountains have been removed by ſeverall private perſons, and Seas brought into their places?* Of this ſort, were the Fiſh-ponds of [n] *Philippus, Hortenſius*, and others, all made by taking in the Sea. Moreover, wee finde that Soveraigntie and Dominion over the Sea, hath been ſomtimes conferred by the Patents of Princes. The Emperor *Trajan*, when hee endowed the Citie of *Tharſus* with Immunities and Privileges, beſides the Territorie of Land lying about, added alſo a grant of *Juriſdiction and Dominion over the river Cydnus and the adjacent Sea*, as may bee ſeen in *Dion* [o] *Chryſoſtom*. And it is very probable, that the Maritimate rights of *Neoceſarea* [p], which *Theodorus Balſamon* ſaies, were compiled by the *Metropolitan* of that Citie, had reſpect unto the like Original: as alſo thoſe privileges in the Sea, which the Emperor *Comnenus*

m *In Conjurat. Catilinæ.*

n *Varro, de re Ruſticâ, lib.3.cap.3.*

o *Orat. 34.*

p *In Concil. Chalcedon. can.4.& in can.12.Synod.7.*

nenus granted to a great number of Monasteries, according to the same Author.

The ancient Lawyers also are not silent, as touching the Dominion of particular persons in the Sea. [q] *Paulus*, one of greatest note among them, declares himself expresly thus; *Verily, whensoëver a proprietie in som part of the Sea belongs to any person, that person may sue out an interdict of* uti possidetis, *in case hee bee hindred from the exercise and enjoyment of his right; becaus this matter concerns a private, not a publick caus; seeing the suit is commenced for the enjoying of a right which ariseth not from a publick but private Title. For, interdicts are proper to bee used in private cases, not in publick.* Nothing could have been more plainly spoken, to show, that, beyond all controversie, hee admits a private Dominion in the Sea, even of single persons. Yea, *Ulpian* himself, who was so fondly inclined to favor the opinion of a perpetual communitie of the Sea, doth sufficiently acknowledg, that common practice and received custom was for the other part. [r] *In case* (saith hee) *I forbid any man to Fish before my Hous or Roialtie, what can bee said? may hee sue mee upon an action of Trespas, or no? The Sea and the shores indeed are common to all, as the Aër. And it hath been declared, that no man can bee prohibited from Fishing, or fowling, any otherwise then as hee may bee debarr'd from entring upon another man's ground. Yet for a man to bee forbidden to Fish before my Hous or Royaltie is the common custom, although grounded upon no Law. Wherefore if any man bee prohibited, hee hath for all that an Action of Trespas.* Hee grants it was a received use and custom, that subjection should bee thus imposed on the Sea, and so a private Dominion thereof bee admitted; but least hee should bee found unconstant to his espoused opinion of the communitie of the Sea, hee hath presumed to declare it

[q] *Lib.* 14. *ff. de Injuriis.*

[r] *L.* 13. *ff. de Injuriis.* § 7.

it don without any Law or Justice. Yet hee himself deliver's his judgment in another place thus, *The vender or seller of the* Geronian *Farm imposed such a condition on the* Botrojan *Farm, which hee still kept in his hands, that from that time forward no fishing for Tunies should bee used upon the Coast thereof, although no private contract can lay a restraint upon the Sea which nature set's open to all. Yet in regard honestie and faithful dealing in the agreement require that this Article of the sale bee observed, the persons that are in present possession, and they that succeed into the said Farm, are obliged by the condition of the covenant or bargain.* In this case, the owner of the *Botrojan* Farm renounceth his right of Fishing. And *Ulpian* might as well have said, that restraint or subjection was imposed upon that adjacent Sea (as indeed it was) but that hee was so unwilling to forgo his Opinion of the Seas unalterable communitie. Moreover, the purchaser of the *Geronian* Farm was so fully possessed of the Sea that lay before the *Botrojan*, that by virtue of this subjection really imposed on that Sea-territorie, the Owner of the *Botrojan* Farm could never after justly claim or exercise a privilege of Fishing for Tunies, without his permission. Whereupon, [f] *Stephanus Forcatulus*, once Professor of the Civil Law at *Tholose*, conclude's to the purpose; *That there is nothing to hinder, but that the Sea, though common to all, may by publick decree bee subjected to a Prince by the same right that hee hold's his adjoyning Kingdom; since the same thing may in a manner bee effected by virtue of a private compact*: Where, by private compact, hee mean's that concerning the Purchaser of the *Geronian* Farm, as hee himself saith expressly in the same place. But the opinion of *Ulpianus* for a perpetual communitie of the Sea, was so entertained as authentick by the Lawyers of the *Eastern Empire*, that there was no

[f] *In Cupidin: juris perito. cap. 9. §. 3.*

Law

Law in force among them whereby an adjacent Sea might bee made appropriate, or any man bee debarr'd the libertie of Fiſhing by the Owner of ſuch Lands as border'd thereupon. And if any one were debarr'd, hee might have an Action of Treſpaſs. Which is manifeſt enough, not onely in the *Baſilica*[t] (which before the diſmembring of them were a bodie of the Law of the *Grecian* or *Eaſtern* Empire) but alſo by the Decrees eſtabliſhed by the Emperor *Leo*; by virtue of which that ſtale opinion of the communitie of the Sea, beeing utterly caſhiered, as not agreeing with equitie, that ancient one of the lawfulneſs of a poſſeſsion and private Dominion in the neighboring Sea, back't with the Autoritie of other eminent Lawyers, was entertain'd again. Moreover alſo, it was ſo firmly ratified by an *Imperial Sanction*, that from that time forward it paſſed over all the *Ægean* Sea without controul. That Law (ſaith that *Eaſtern* [u] Emperor, who reigned about the nine hundreth year of our Lord) which ſo take's away the right of poſſeſsions bordering on the Sea, as to make the Lord thereof liable to an Action of Treſpaſs if hee prohibite others to Fiſh upon thoſe Coaſts, in our judgment * *ſeem's to determine that which is not equitable or juſt.* Hee add's the reaſon, becauſ whatſoëver com's into the poſſeſsion of any man, by good and lawful Title, whether by ſucceſsion, art and induſtry, or any other way which the Law approve's, there is no reaſon that other men ſhould have the uſe and benefit thereof without the owners leav. Thus the matter beeing duly examined hee judged, that hee who held any part of the Sea in the aforeſaid manner, had a Title grounded upon a very clear Right. *Therefore*, ſaith hee, *wee decree that every man poſſeſs his* veſtibula *or Seas lying before his Lands and bee maſter of them by*

[t] *Eclog. lib. 53. tit. 6. περὶ ἁλιέων. ſeu de Piſcatoribus.*

[u] *Leo Imperator in Novel 56.*

* ἡμῖν δὲ δίκαια ἐπιρρέπουσα ἐφάνη.

an

an unqueſtionable right, and that hee have power to keep off any perſons whatſoëver that go about to enjoy the benefit thereof without his permiſsion. And in that which follow's, hee make's the Proprietie of Sea and Land altogether equal. The Seas which laie thus in the face of Manors, were called πρόθυρα τὰ θαλάττια, *Sea-Courts or Entries*, nor did this ſanction of *Leo* ſerv onely for the ratification of former Titles, founded either upon particular poſſeſsion, or any other, but ordained in general, that every man for the future ſhould bee Lord of that neighboring part of the Sea which laie before or flowed by his Lands, although hee had never been poſſeſſed thereof before. In this very ſenſ it is taken by *Conſtantinus Harmenopulus*, a Judg of *Theſſalonica*; [x] *Touching Sea-Courts or Entries by Sea* (ſaith hee) *it is decreed in the thirtieth Novel of the Emperor* Leo, *that every one bee maſter of that which is adjoyning to his Lands, and that power bee given him to prohibit ſuch as at any time go about to make any benefit of theſe Veſtibulas or Entries without his permiſsion. Harmenopulus*, following a different order of the *Novels* call's that the thirtieth, which in the printed Copies is the fiftie-ſixth.

[x] *Prochir. Juris, lib. 2. tit. 1.*

But now how much of the Sea directly forward did paſs into the poſſeſsion of the ſame perſon that was Lord of the adjoyning Lands either by antient cuſtom, or by virtue of this decree is not yet certainly known, nor is it neceſſarie to our purpoſe, but for latitude, even as it were in a field, thoſe *Veſtibulas* or Entries of the Sea were bounded by the ſame limits with the adjacent Lands. And it was the cuſtom for particular owners to have their *Epoches* or Pens for fiſh (which the [y] later *Greeks* call Τράνας) that is to ſaie, Nets ſpread between ſtakes driven into the Sea; but limited upon this condition that every *Epoche* ſhould

[y] *Michaël Athaliates, Pragmatic. tit. 95.*

bee distant from the other [z] three hundred sixtie-five Cubits if so bee the breadth of Land could conveniently permit. And such an equal distance was observed on both sides, that a direct line from each *Epoche* to the extremitie of the *Vestibulum* or Entrie was extended one hundred eightie two ells and a half; but this rule for limitation became useless after a ten years prescription.

[z] *Leonis Novella* 57. 102. 103. 104. & *Athaliates loco jam citato.*

The Lord of a Manor bordering upon the Sea improved his yearly Revenue by these as by other commodities, which profit arising from those Entries is usually stiled by the *Eastern Lawyers* προθύρου κέρδος, and τοπιατικὸν, which may bee translated *locarium*, for the price which was paid for hire of a Stall, Shop or Farme, is called in [a] Latine *locarium*; so that wee see private persons raised their *topiatica* or *locaria*, that is, their Rents, out of the adjacent Sea. And out of those Rents they paied to the Prince a yearly Tribute amounting to no inconsiderable summe (as was shewed before) levyed upon that accompt. So that by the custom of the Eastern Empire, not onely the Soveraigntie of a Prince (which is the point in question) but also the Dominion of private persons in the Sea, beeing ratified by Autoritie of publick decrees, enacting it, and repealing as unjust whatsoëver gainsai'd it, it was in use beyond all dispute above five hundred and fiftie years: for so many are reckoned to the taking of *Constantinople* from the date of the aforesaid decree of *Leo*; which concerned not onely *Bosphorus* in *Thracia*, the *Hellespont*, the *Ægean* and the narrower Seas, but all those that were under the Dominion of the Emperor of *Constantinople*. And this may serv to bee spoken of the more antient *Historical* Age or that which contain's the customs

[a] *Varro de lingua latina. Et de Topiatico* videsis *Jac. Cujacium Observat. lib.* 14. *cap.* 1.

customs and Laws of Kingdoms and Common-weals that are long since exspired.

Touching the Dominion of the Sea, according to the Customs of such Nations as are now in beeing. First of the Adriatick Sea *belonging to the* Venetians, *the* *Ligustick *to the* Genoëses, *the* Tyrrhen *to the* Tuscans, *and lastly of the Sea belonging to the* Church, *or Pope of* Rome.

* *Mare Ligusticum* is now called *Mar Leone*, and *Mar di Genoua*.

CHAP. XVI.

IF wee take a view of later times or the Rights and Customs of Nations which at this present are in high repute and autoritie, there is nothing that can more clearly illustrate the point in hand then the Dominion of the *Adriatick* Sea, which the most noble Common-weal of *Venice* hath enjoyed for so many Ages. The truth of this is every where attested and acknowledged, not onely by *Historians* and *Chorographers*, but by very many Lawyers [a] *Bartolus*, *Baldus*, *Angelus*, and a companie of above thirtie the most eminent among them; unless they bee mis-reckoned by *Franciscus de Ingenuis*, who saith hee counted so many, in that Epistle of his to *Liberius Vincentius*, written som years ago, in defence of the Dominion of the *Venetians* over the *Adriatick* Sea, in answer to *Johannes Baptista Valenzola* a Spaniard, and *Laurentius Motinus* a *Roman*; who (as hee saith) to gratifie the Duke of *Ossuna* Vice-Roy of *Naples* whose creatures they were, wrote against the Right of Dominion which belong's to the *Venetians* by Sea.

[a] *Ad ff. tit. rer. divis. & ad l. sanè 13. tit. de injuriis.*

Venice is commonly ſtyled the *Miſtreſs of the Sea*, and the *Queen of the Adriatick Sea*, though the Controverſie about its Bounds bee not yet decided. And [b] *Sannazarius* write's thus of this Citie,

[b] *Epigr. lib. 1.*

Viderat Adriacis Venetam Neptunus in undis
Stare urbem, & toto ponere jura Mari.

Neptune ſaw Venice in the Gulf to ſtand
Of Adria, and all the Sea Command.

Nor doth this Dominion ariſe from any juriſdiction or protection over the perſons of ſuch as frequent the Sea (as is imagined by ſom, miſerably [c] carried away with the autoritie of *Ulpian*, ſo often affirming that the Sea by the Law of nature is commnn to all men;) nor is it a qualified Dominion (as ſaith *Angelus Matthæacius*, profeſſor at *Padua*;) but this Sea doth ſo properly belong to the *Venetians*, that it is not lawful for any other to uſe or enjoie the ſame without their permiſsion; foraſmuch as they have right to prohibit any to paſs, to impoſe cuſtom upon thoſe whom they permit, to do any other thing in order to the raiſing of benefit and advantage out of the water, as any man may do in his proper poſſeſsions by Land. As concerning Navigation in that Sea, that it may bee prohibited at their pleaſure, and that by approved right, wee have the teſtimonies of many Lawyers. *It cannot bee denied*; (ſaith [d] *Angelus de Ubaldis*) *but the* Venetians *and their Signiory, for very many Ages, have been and are in poſſeſsion as it were of the aforeſaid Gulf: wherefore the* Venetians *by virtue of that antient poſſeſsion which they have had ſo long, and do yet enjoie, may by putting a reſtriction into the form of their Covenants, hinder the* Genoëſes *or any other whatſoëver that ſhall offer*

[c] *Vid Jul. Pacium de Dominio Maris Adriatici. Alb. Gentilis, de Jure Belli, lib. 1. cap. 19. Roderic. Suarium, de uſu maris. Angelum Matthæacium de viâ & ratione artificioſâ juris univerſi lib. 1. cap. 36.*

[d] *Conſil. 190. Idem ad l. 13. ff. tit. de Injuriis.*

to

to ſail through their Gulf. The ſame ſaie others alſo, quoted by [e] *Benevenutus Straccha,* [f] *Antonius Peregrinus,* [g] *Marta Neopolitanus,* [h] *Julius Pacius,* [i] *Mantua Patavinus,* [k] *Franciſcus de Ingenuis,* and *Fulgentius Monachus Venetus,* who all have written more particularly, and made it their buſineſs to aſſert the right of the *Venetians.* And there are examples to bee produc'd which ſhew, how Princes, as well neighbors as others, have made it their ſuit to the State of *Venice* to obtain leav to paſs through that Sea, which ſomtimes was granted, and ſomtimes denied. In the year 1399, *December* 12. *Radulphus* Earl of *Otranto* made a requeſt to that State in the behalf of *Uladiſlaus* King of *Naples* and *William Archduke* of *Auſtria*, that leav might bee granted to paſs through the *Adriatick* Sea with Galleyes and other Ships, to conveigh the Siſter of the King out of *Apulia* to the Territories of the *Archduke* her husband, which the Republick granted, but with this condition, that no perſon that had been baniſhed from *Venice,* or was guiltie of any capital crime againſt the State, ſhould bee taken aboard thoſe Ships. Which the *Auſtrians,* imbarking at *Trieſte,* faithfully obſerved both in their voiage and in their return. There are extant alſo two Letters, [l] wherein the Emperor *Frederick* the third, in the years 1478, and 1479, deſire's of *Giovanni Mocenigo* Duke of *Venice,* and of the State, that leav might bee granted him, to tranſport corn from *Apulia* through the *Adriatick* Sea. *Franciſcus de Ingenuis* make's mention of others to the ſame purpoſe, written to the ſame Duke from the Kings of *Hungarie.* And this they intreat as a matter of great favor, for which they ſhall acknowledg themſelvs obliged. *Matthias* King of *Hungarie* in a Letter to Duke *Mocenigo* dated 1482. write's, That whereas the State hath been wont to give

[e] *Tract. de Navigatione,* §. 8.
[f] *De jure fiſci, lib.* 8. §. 14.
[g] *De juris dictione, lib.* 1. *cap.* 33. §. 25. & 26.
[h] *Lib. de Dominio maris Adriatici.*
[i] *Fragment. de Venetiis ſubnex. Epitome de juris conſultis illuſtr.*
[k] *Franciſcus de Ingenuis, In Epiſt. de Venet. jure.*
[l] *Anton. Peregrin. de Jure Fiſci, lib.* 8. §. 19.

leav to the Earls of *Frangipanis* and *Zenga*, and others whoſe Territories laie upon the Sea Coaſts every year to tranſport a certain ſtore of corn, from *Apulia* through that Sea, hee deſire's that the ſame libertie might bee vouchſafed to himſelf, who had now ſucceeded into the Dominion of the very ſame Countries.

And as touching the right which the *Venetians* had to impoſe cuſtom on paſſengers, as travelling through their peculiar Territorie, there are frequent teſtimonies among the Lawyers. [m] *Saliceus* mentioneth a Decree of the *Venetians*, that all who paſſed through the Sea ſhould bring in their merchandiſe to *Venice*, and there paie cuſtom. And ſaith [n] *Bartholomeus Cepola, The* Venetians *within their Dominion have ſeveral Roialties and Rights belonging to their Exchequer: and,* de facto *at leaſt, acknowledg no Superior; ſo that they have power to impoſe Gabels, to confiſcate goods and commodities in the aforeſaid Sea, as well as in the Citie of* Venice; *having as full juriſdiction in the Sea, as in the Citie. Antonius Peregrinus* alſo, who was advocate of the Exchequer at *Padua*, after a large diſcourſ upon this ſubject, [o] *the concluſion,* ſaith hee, *is this; that the right of Fiſhing in the Adriatick Sea is one of the Roialties belonging to the Duke of* Venice; *and therefore hee hath power to forbid, permit, and charge Gabels upon it. Julius Pacius, Marta,* and others both modern and antient treat at large of this particular. And the reaſons of ſom *Neapolitans* that are the moſt obſtinate oppoſers of this right, are onely drawn either from that [p] opinion for ſo many Ages ſince exploded by the cuſtom of Nations, that the Sea is naturally common to all; or from that chimera of the univerſal Dominion of the *Roman* Emperor. Whereas

[q] *Marta*

[m] *Ad L. 3. De Nautico Fœnore.*

[n] *De ſervitutibus Ruſticorum Prædiorum, cap. 26. §. 10.*

[o] *De Jure Fiſci, lib. 8. §. 43. & lib. 1. cap. §. 18.*

[p] *Franciſcus de Ponte, de poteſtate Proregis, Collateralis Conſilii, tit. 11. §. 19. & ſeqq.*

[q] *Marta* himſelf, who was a Lawyer of *Naples*, writes thus; *The* Venetians *are Lords of the* Adriatick *Sea, the extent whereof is* 80 *miles, reaching from that place heretofore called* Aquæ Graduatæ *unto the Town of* Loreto, *ſeated now near the River* Po. And *Franciſco di capoblanco*, a *Neopolitan*, alſo [r] confeſſeth that *now the Rivers and Seas are paſſed into the hands of Lords and Patrons.* And in a Letter of [r] *Lewis* the 2[d] to *Baſilius* Emperor of the Eaſt, *Nicetas Patricius* is mentioned under this title, *The Protector of the* Adriatick *Sea.* And *the Gulph*, ſaith [t] *Cardinalis Tuſchus, doth properly belong to the* Venetians, *by virtue of a long preſcription of poſſeſsion, as it hath been declared in an agreement made between the States of* Venice *and Genoa.* For confirmation whereof, hee cite's *Angelus* and *Jaſon.* But the firſt time, they ſaie, wherein cuſtom was charged upon thoſe that paſſed through the *Adriatick* Sea, was the year 1263. when *Lorenzo Tepulo* was Duke of *Venice.* The Republick of *Genoa* beeing diſtreſſed with war and famine, and their neighbors not releiving them with proviſions, *this Tepulo* (ſaith [u] *Flavius Blondus*), *began to impoſe a new cuſtom, or to ſpeak more plainly, laie a Reſtraint upon thoſe that ſail'd through the* Adriatick *Sea. For, upon that occaſion a Law was made, which remain's in force to this very daie; that all who ſailed between the Gulf* de Quevera, *and the* * *Promontory of* Sola, *and Coaſt of* Ravenna, *ſhould com into* Venice, *to paie Cuſtom, and* (*if the Officers thought fit*) *to unlade their Merchandiſe and Goods. And an Officer was ordained for that purpoſe, to ſcout daie and night with his Barks, about the Coaſts and Harbors of ſhores to ſee to the Obſervation of this Statute.* But above all, wee muſt not paſs by that Controverſie which happened about this time, between the people of *Ancona*, and the *Venetians*, in

[q] *De Juriſdictione part. 1. cap. 33. §. 25.*

[r] *De Jure Baronum Pragmatic. 14. §. 27.*

[t] *Apud. Goldaſtum in Conſtit. Imperialibus, Tom. 1. pag. 198. & Baronium, Annal. Tom. 10. ann. 871.*

[t] *De Jure ſtatuum in Imp. Romano membro 25.*

[u] *Decad. 2. Lib. 8.*

* *Capo di Pola.*

in a general Councel at *Lions* the *Anconitans* complained that the *Venetians* had usurped the Sea and Custom, and other things against all right. Pope *Gregorie* the tenth referred the matter to the examination of the Abbot of *Nervosia*. He rejected the allegations of the *Anconitans*, as weak and wanting proof, and by the Autoritie of the *Pope* (saith the aforenamed *Blondus*) commended to the *Venetians*, the care of defending the aforesaid Coast of the *Adriatick* Sea, against the *Saracens*, and Pirats; allowing them withal the rights of their Customs and Impost. Whereat the Ambassadors which were then present, did not interpose a word; but the debate was thus determined with the approbation of all, except the Complainants. But the Dominion of *Venice* over that Sea, is of far greater Antiquitie; to signifie which, they have an annual cerimonie, instituted, they say, by Pope [x] *Alexander* the third, I mean the use of the Ring, which every year, upon *Ascension* daie, the Duke, in a solemn manner, rowed in the *Bucentoro*, accompanied with the *Clarissimos* of the Senate, cast's into the midst of the water, for the perpetuating (saith [y] *Paulus Merula*) of their dominion over the Sea; signifying by that love-token, that hee betroth's the Sea to himself in the manner of a lawful Spouse, using such a form of matrimonie, *Wee take thee to our wedded Wife, O Sea, in token of a true and perpetual Dominion.* What should hinder then, but that wee may conclude, that the *Venetians* were looked upon, not onely by themselvs, but by their neighbor Princes, as Lords of that Sea, by as unquestionable and full a title, as of their Land and Citie?

[x] *Anton. Peregrin de Jure Fisci, lib. 8. §. 18.*

[y] *Cosmograph. part. 2. lib 4. cap. 36. de quo more item Stephanus Forcatulus, de Gallorum imperio & philosophia lib. 3, alii, præter Scriptores de Venetorum Republicâ.*

There are other States also in *Italy*, that have Maritim

ritim Rights of the ſame nature. Princes (ſaith [z] *Benedictus Bonius*) *have right to laie impoſitions upon the Sea-ſhores, foraſmuch as what nature had left at libertie, is brought by them into ſervitude and proprietie: as the* Tyrrhen *Sea, which is under the command of* Piſa *and* Tuſcanie, *the* Adriatick *of* Venice; *the Liguſtick of* Genoa, which is affirm'd in like manner by [a] *Angelus*, [b] *Baldus*, [c] *Cepola, and others.* The Biſhop of *Rome* alſo hath his Sea, which is called likewiſe the *Churches Sea.* The Bull, intituled *Cœnæ Domini*, which is [d] wont to bee publiſhed every *good Friday*, for the excommunication or Delinquents, run's thus; *Item, wee excommunicate and anathematize all Pirats, Rovers, and Robbers upon the ſea, thoſe that haunt and infeſt our ſea*, eſpeciallie *that part lying between the Mountain* Argentaro, *and* Terracina. And [e] *Bartholomæus Ugolinus*, a famous Lawyer, ſaith, that this Excommunication did involv *Pirats, Rovers*, or *Robbers upon the Sea, ſuch as haunted the Churches ſea, eſpecially that part lying between the Mountain* Argentaro, *and* Terracina. The ſame is called by others *the Pope's Sea.* And although a [f] certain Autor would there by *Our Sea*, have the whole Sea underſtood in all parts of Chriſtendom, yet it is the unanimous conſent of the moſt famous Interpreters of that *Bull*, as [g] *Tolet*, [h] *Suarez*, *Ugolinus*, [i] *Antonius de Souſa*, and others, that by that name is ſignified the Sea which is part of the peculiar patrimonie of the *Pope*. Nay, more then this, ſom of thoſe Autors now mentioned, will have this curſ of Excommunication to bee incurred not onely by committing piracie, but by a harmleſs paſſage of Pirats through this ſea; it being all one as if a profanation or injurie were committed upon Church-land. So that ſuch a dominion over the ſea is plainly avouched by the Ca-

[z] *Lib. de Cenſibus artic.* 16. § 40.

[a] *Conſil* 290.
[b] *Ad l.* 1. *& de Sentent. ex Brevic. recitanda.*
[c] *De Servitutibus Ruſtic. prædcap.* 26.
[d] *Laertius Cherubinus in Bullario, tom.*3 *p.*251.

[e] *De Cenſuris Pontificireſervatis, part.* 2.*cap.*3. § 1.

[f] *Graſſius, lib.* 4.*deciſ. cap.* 18.*n.*53.

[g] *Summa, li.* 1. *cap.*20.
[h] *De Cenſuris Diſp.* 21. *ſect.* 2. *num.*18.
[i] *Relict. de Cenſuris Bullæ Cœnæ, cap.* 4.*diſp.*25. *& ſeqq.*

non Law. And it is confirmed by what may bee gathered out of the gloſs of that body. If Herrings were taken upon an holy day, a convenient part of them, by the Canon Law, are due to the next neighboring Churches. There the [k] *gloſs* add's *eſpecially to thoſe in whoſe Territories the Fiſh were caught.* By a Decree of a General Councel at *Lions*, if the *Pope* dyed beeing out of the Citie, the *Cardinals* are to meet for the Election of his Succeſſor in that Citie, within whoſe Territorie of Juriſdiction hee died. If the *Pope* die upon the Sea, the Election is to bee made in that Citie or [l] place which is next to the Sea. This intimation is given by the *gloſs*, and acknowledged by others.

[k] *Gl. ad C. licet. 3. tit. de Ferris.*

[l] *Gl. ad C. ubi periculum, §. 3. porrò 6. de Electione, & ibi Jo. Andræas.*

But notwithſtanding this, the Citizens of *Rome* were allowed the privilege of Fiſhing, in the *Sea of the Church* (as they call it) or of the *Pope*; as the Inhabitants of a Village bordering upon a paſture-ground, may by virtue of ſom compact, uſage, or cuſtom, put in their Cattel to graſe there, though perhaps it bee in the poſſeſsion of ſom particular perſon. This is a Statute of the Citie of [m] *Rome. Everie Citizen of* Rome *and Inhabitant of the Citie, and within the liberties thereof, ſhall have libertie to Fiſh, at any time, and with any inſtruments whatſoëver, in the ſtream both of* Tiber, Anien, *and in the Sea, ſo far as the Banks of the Rivers and the Sea-ſhore do reach. And no perſon ought to prohibit or forcibly take any thing away from them, ſo long as they forbear to treſpaſs upon any Lands, Houſes, and Fiſh-ponds, which belong to private Owners; or to com upon the Banks of the Coaſt of* Arenula, *namely, of* St Severia *and* Paul, *in which places it is not lawful for any to Fiſh without warrant from the State's Advocate.* And ſuch a kinde of privilege as this, qualified either by

[m] *Statuta, urbis Romæ, lib. 3. cap. 72.*

by grant, or covenant, or cuſtom, is verie often found in ſuch places as enjoy a Dominion of the Sea.

Concerning the received Cuſtoms of the Portugals *and* Spaniards, *about the Dominion of the Sea.*

CHAP. XVII.

THat Dominion over the Sea, is acknowledged in the Cuſtoms of the *Portugals*, is apparent to any man that will but obſerv the uſual Title of their Kings; King *Emmanuel* in his preface to the Laws of *Portugal* ſtyle's himſelf; *Dom Manuel, per grace de Deos* Rey, *&c. Senhor de Guinee, & da conquiſta & Navagaçam & commercio d' Ethiopia, Arabia, Perſia, & da India à todos &c.* which elſwhere is rendred in [a] Barbarous Latine thus, *Emanuel Dei gratiâ Rex &c. Dominus Guineæ & conquiſtæ Navigationis ac commercii Æthiopiæ, Arabiæ, Perſiæ &c.* Emmanuel **by the grace of God King &c. Lord of** Guinee, **and by Conquest of the Navigation and Commerce of** Ethiopia, Arabia, Perſia &c; where *conquiſta* in the language of *Spain* and *Portugal*, ſignifieth that which is acquired by War. The ſame Title is often found in the Letters Patent and Commiſsions of the ancient Kings of *Portugal*: whereupon *Jacobus* [b] *Valdeſius* write's, *that they are, and are acknowledged to bee Lords and Maſters of Commerce, Traffick, and Navigation.* But for any perſon to bee Lord of Navigation and Traffick by Sea, without Dominion over that Sea, is all one, as to uſe and enjoy a piece of Land, to have right to prohibit all other from doing the like, and yet not to

[a] *Concil. general. Lateran. ſub. Leone, 10. ſeſſ. 9.*

[b] *De dignitate Regum Hiſpan c. 12.*

bee owner thereof. But among the Laws of *Portugal* there are yet clearer evidences for private Dominion over the Sea; even of the *Atlantick* or Ocean it self. For, therein it is forbidden that any person either Forraigner or Native (the words of the Law are[c] *Assi Natural commo estrangeiro*) in any shipping whatsoëver to pass, *dittas partees, mares de Guinee & Indias, & qualsquer outras terras & mares & lugares de nossa conquista, tratar, resgatar, nem guerrear, sem nossa licença & autoridade, sob pena que fazendo ho contrario moura por ello morte natural & por esso mesmo feito percapera nos todos seus beens moveis & de rays*; that is to say, *to the said countries, lands and Seas of* Guinee, *and the* Indies, *or any other Lands, Seas, and places under our Dominion, for Commerce, or Traffick, or making of War without our Licence and Autoritie, under pain of death and total confiscation of estate, to bee inflicted upon any that shall presume to do the contrarie.* And for the execution hereof, the Commanders of those Fleets, who had leav from the King to sail thither, had Commission given them, to call to account all whom they found in any kinde transgressing this Law. So that, wee see the Nation of *Portugal* also made no question, but that Dominion might bee justly acquired over the Ocean it self. And this Law, in the extent of it, reached as well to forraigners, as to the King's subjects. Although forraigners do not acknowledg that *Portugal* hath acquired any such right. However, that in the Law of Nature which is obligatorie, there is nothing to hinder, but that such a right may bee acquired, is (I suppose) acknowledg'd by all the Nations in *Europe*, except som perhaps who are not yet in fair and lawful possession of any Sea; if so bee at least a man may rightly gather their acknowledgments from their received customs. And truly, about the beginning of Queen *Elizabeth*'s reign, there

[c] *O Quinto libro des Ordennaçones, tit.* 112.

there was a hot dispute between [d] her and *Sebastian* King of *Portugal* touching the Dominion of the *Atlantick* and South-Sea that open's the way to the *East-Indies*, which was claimed by the *Portugals*. But the question in that dispute was not, whether or no *Sebastian* could bee Lord of that Navigation or Sea, but whether hee had made any lawful acquisition of such a Dominion. But in the Common Law of *Spain* or *Castile*, although, it bee true, that the use of the Sea is most free, and that in such a manner almost as if no positive Law had ever laid any restraint upon the natural [e] Communitie thereof; yet the *Spanish Lawyers*, and those not of the meanest account, do in most expres's terms declare it capable of Dominion, yea, and that it was acquired by the King. *The Prince* (saith *Gregorius* [f] *Lopez*) *may grant any man a priviledg to fish in a certain part of the* Sea. And *the Sea* (saith *Joannes* [g] *Garcias* a Spaniard) *belong's to him, who is Lord of the adjoyning land*: This hee speak's of som particular Sea belonging to *Spain*; for to speak it of the sea in general, were idle. There are other also, as *Didacus Couvaruvias*, [i] *Joannes de Hevia*, who are plainly for the Dominion of the Prince, as well for a controlling the libertie of Navigation, as restraining the common use of Fishing. And how frequent this Opinion is among the Lawyers of *Spain* and *Portugal*, is acknowledged by *Fernandus Vasquius*, (though hee himself do extremely oppose it) as appear's by those words of his alreadie cited in the *second Chapter*.

Moreover, it is sufficiently manifest, out of [k] *Rodericus Suarius*, that such rights & priviledges were exercised by private persons, grounded either upon custom, or som grant of the Prince, which demonstrate a dominion over the Sea among the *Spaniards*; although that Autor taking the measure of Law, rather from the Dictates of the

[d] *In Schedis ejusd. Temp. in Biblioth. Cottoniana.*

[e] *Vide Alphons. ad Azeved. ad Constit. Regias, l. 7. tit. 8. Partid. 3. tit. 28. l. 3. Recopilat. l. 7. tit. 10. l. 9. & Partid. 5. tit. 9. l. 7. & 8.*

[f] *Ad Alphonsinas, Partid. 3. tit. 28. l. 11.*

[g] *Lib. de expensis & Meliorationibus, cap. 21. num. 34.*

[h] *In Relect. peccatum, part. 2. §. 8.*

[i] *Laberinto de Commercio, lib. 3. cap. 1. §. 12.*

[k] *Consil. de usu Maris §. 13.*

Schools, then the received Customs of Nations, is the more earnest for that antient opinion of a perpetual communitie. Yea, the verie title of the King of *Spain* hath that in it which may seem to import, that hee call's himself King of the Ocean; especially, if you consider those words which wee finde somtimes among Germane Writers, in the Title of *Charls* the fifth Emperor, and King of *Spain*. In the Preface to the constitution concerning publick Judicatories, in the Empire, hee is called *King of the Canarie Ilands, also of the Islands of the Indies, and of the Continent, and of the Ocean, Archduke of Austria &c.* And in the Imperial Sanctions published in high Dutch **Konig-under Insulen** *Canariæ*, **auch der Insulen** *Indiarum*, **und** *Terræ firmæ*, **des Maers** *Oceani &c.* as you may meet with it at least six hundred times. The word Ocean is added, as if hee entitled himself *King of the Ocean.* But this is a mistake: for, the same in Spanish is *Rey &c. de las Islas, y terra firma del mar Oceano &c.* that is, *King of the Islands and of the* Terra firma *of the Ocean*; namely, the Islands or Continents of, or lying in the Ocean, (which Pope [1] *Alexander* the Sixth, gave to *Ferdinand* the Fifth King of *Spain*, all of them lying Westward from the very first Meridian) of those hee entitle's himself King, not of the Ocean it self.

[1] *Laërt. Cherubin. Bullar. tom. 1. pag. 392. de qua donatione fusè Joannes Solorzanus de Jure Indiarum, lib. 2. cap. 22.*

How

How far private Dominion over the Sea is admitted, according to the Cuſtoms, or opinion of the French.

CHAP. XVIII.

AS concerning Dominion of the Sea according to the Cuſtoms of the *French*, ſom perhaps may ſeem to have met with verie ancient evidences thereof, in thoſe *Officers deputed for the guard of the Sea-Coaſts*, whom wee read of in the [a] Statute-Books, and in that *Rotlandus, Governor of the Britiſh* (that is, the *Aremorican*) *ſhore*, mentioned in the life of *Charle maign* by *Eginhartus* a Writer of that time. But thoſe dignities have relation, not ſo much to the Sea it ſelf, as to the ſhore and Sea-Coaſt, or the border of the Land confining with the Sea; notwithſtanding that *Rotlandus* is, by the *French-men* of this and the former Age, promiſcuouſly ſtyled [b] Governor both of the Sea and Shore, as if there were no difference. But it cannot bee denied, that Princes heretofore upon the Shore of *Armorica* or *Bretaign* (as the *Veneti* * of whom wee ſpake before, did upon the ſame Shore) impoſe Cuſtom upon Ships, as for the uſe of the Road upon their Coaſts, and challenge to themſelvs other Rights of the like nature, called *Nobilitates ſuper navibus*. So it is to bee read in an ancient Record, made in the time of Duke *Alanus* in the year MLXXXVII, concerning Precedence of Place among the Nobles of *Bretaigne*. In that Record, the ſecond place is aſsigned to the Viſcount of St *Pol de Leon*, who (as the very [c] words of it are) had verie many of thoſe Cu-

[a] *Capitular. Caroli & Ludovici Impp. lib. 4. tit. 5.*

[b] *Choppinus de Domanio, lib. 1. tit 15. Paſquier*, en les recerches de la France, *lib. 2. cap 14. Simon Marion*, Plaidoye, 5. *edit. Pariſ.* 1591. *Tilius, & alii.*

* The *Veneti* were an antient people inhabiting that part of *France* now called *Bretaigne.*

[c] *Apud. Bertrand. Argentræum, in hiſt. Britan. minoris, lib. 1. cap. 13.*

Customs called *Nobilitates super navibus*, imposed on such as passed the Ocean upon the Coasts of *Osismer* or *Leon*; *which* (as it was said) Budicius, *an antient King of* * Bretaign, *did give and grant to one of his predecessors, upon Marriage, in reward of the virtue, fidelitie and valor of that Viscount: but with the consent of the Prelates, Counts, Barons, and Nobles of Bretaign.* What these *Nobilitates* were, and whence they had their original, is partly declared *by Bertrandus Argentræus*, somtime President of the Province of *Renes*, where hee discourseth also of the right of giving Pass ports (which they call *brefs de conduicte*) at this time in use on that shore. [d] *That* (saith hee) *whereas till then it had been a right peculiar to the Princes, beeing given, by way of Dowrie, to the Barons of* Leon (of which wee have alreadie spoken out of the aforesaid Record) *remained an hereditarie and proper right to that Familie, until* Joannes Ruffus *the Duke redeemed it for a vast sum of monie, of* Guynomarius *Baron of* Leon, *after that* Peter Mauclerc *of* Dreux, *Duke of* Bretaign *had in vain attempted to re-assume it by force of arms. It had its original, they say, upon this occasion: When our Princes and antient Kings considered the daily Shipwracks made upon that shore, where there were many Rocks and but few Havens, they made a Law that none should set to Sea without their leav. Such as did set out, paying a certain rate, had passes, and guides appointed them,* that were well acquainted with the Sea and Shores: *They that refused, forfeited their ships with all their tackling and furniture thereof: and if the Ship were cast away, their goods also were confiscate. They that had leav were in no danger of confiscation, and if they suffered Shipwrack, had libertie to recover as many of their goods as they could. And these guides were paid their* σῶστρα *or Conduct-money, which*

wee

* *Aremorica* or *Bretaign* in *France.*

[d] *Ad Consuet. Brit. Art.* 56. § 44.

wee have mentioned elſwhere, called by them droit de ſalvage. *Theſe Tickets or Paſſes are given out now, as heretofore, at a certain price : And among other Revenues of the Exchequer, they alſo were rented out to the Farmers of the Cuſtom.* So far *Bertrandus*, from whom *Renatus* [e] *Choppinus* borroweth almoſt the very words. But [f] *Petrus Berlordæus*, Advocate of the Parlament of *Reines*, tell's us, that the Cuſtom of taking forfeiture in that manner of all ſhipwrack't goods, was aboliſhed there, by an Edict, in the year MDLXXXIII. But in the mean time, for ſo much as concern's any part of that Weſtern Sea lying next the Shore, theſe are manifeſt evidences, either of Dominion or of ſubjection in the Sea; which indeed ſufficiently prove, by the Cuſtoms of that people, that the Sea is capable of Dominion. Moreover, upon occaſion of theſe Paſſes, there have been controverſies raiſed ſomtimes between the Dukes of *Bretaign*, and the Kings of *England*; as may bee ſeen in certain [g] memorials of the affairs of *Bretaign*, which have relation to the times of our *Richard* the ſecond, and *John* the Fourth, Duke of *Bretaign*. But this wee know for certain, that in the agreement made between our *Edward* the Fourth, and *Francis* the ſecond, Duke of *Bretaign*, in the year MCCCCLXVIII, concerning mutual traffick and free paſſage to and fro for the ſubjects of each Nation, during a [h] truce of thirtie years, there is an expreſs *proviſo* concerning Wrecks; but ſuch a one as left an equal right to both of them; not altogether unlike that which for many ages hath been in uſe upon the *Engliſh* Shore : No mention at all beeing made in the Articles of the Truce, either of the right or uſe of theſe aforeſaid Paſſes, as beeing a thing in no wiſe admitted by the *Engliſh*. But ſom modern Lawyers among

[e] *De Domanio, lib. 1. tit. 15. §. 10. & & Thom. Cormer. Cod. Hen. 4. lib. 7. tit. 1. cap. 6. §. 106.*

[f] *In Conſuetud. Brit. Art. 51.*

[g] *In Bibliotheca Cottoniana.*

[h] *Ibid. & Rot. Franciæ 8 Ed. 4. membran. 20. & ſeqq.*

among the *French* do vainly affirm, that their King is Lord not onely of a part of the Sea neighboring upon the Territorie of *Bretaign*, but of the whole Sea that is adjoyning to any part of *France*, and so of the *British* or *English* Sea also: By which very Assertion of theirs, they sufficiently declare their judgment, that there may bee a soveraign over the Sea. *The King*, saith [i] *Charondas Caronæus, is supreme Lord of the Seas, which flow about his Kingdom: the ground whereof is this, becaus the Universal right of all those things which were common, either by the Law of nature or Nations, is transferred into his Dominion.* And other passages hee hath much to the same purpose; as also [k] *Stephanus Paschasius*, [l] *Ludovicus Servinus*, sometime Sollicitor general for the King, [m] *Popellinerius*, and others. If they speak of the Sea of *Marseille* or *Narbon*, wee shall not oppose them. But as to what concern's the bodie of the Sea which lie's Northward or Westward of the *French*, or that flow's between *France* and the Islands of *great Britain* (for that which lie's Westward from them upon that crooked Shore, or the gulf of *Aquitaine*, doth indeed flow between the more Westerly Coasts of our British Iles, and of *France*, as well as that which lie's Northward from them, flow's between *England* and *Normandie*) they neither produce any Testimonies of Antiquitie, nor indeed can they if they would: Unless you will have that admitted which hath been cited out of *Cæsar* concerning the *Veneti* of * *Aremorica*, and that which wee said before of the Sea bordering upon that shore. Both which indeed do rather import som service, called heretofore *Nobilitates super navibus*, then any kinde of Dominion. But the soveraigntie of this Sea which flow's between them and us, became absolutely ap-

[i] *In not. ad Codic. Henrici, 3. l. 20. tit. 7. Constit. 28 & constit. 1.*

[k] *Recerches, liv 2 c. 14.*

[l] *Playdoies tom. 2. playd. 11.*

[m] *L' Amiral de France.*

* Now *Bretaign* in *France.*

appropriate to the Kings of *England*, as wee ſhall make it appear in the next Book. And the truth is, if wee look upon the Cuſtoms moſt in uſe among the *French*, or the Civil Law of that Nation, there is nothing in it that derogate's from the antient communitie of the Sea, but as to them it remaine's as yet not poſſeſſed, but common to all men, and therefore not to bee reckoned among the Revenues or Patrimonie of their Kings; if ſo bee credit may bee given to that Treatiſe lately publiſhed of the Civil *Romane* and *French* Law, by *Thomas Cormerius* Counſellor to *Francis* Duke of *Anjou* in his Parlament of *Alençon*. The matter that it pretend's to treat of, is the *Romane Gallick* Law. There are in it the Cuſtoms of *France*, decrees of Princes, and Privileges often intermingled. But under the [n] Title *of things common to all*, hee make's the Sea and Shores common to all, according to the antient Law of the *Romanes*, as if in this matter it did exactly agree with the Law of *France*: which certainly is an argument, that the *French* have no Dominion over the Sea. Nor muſt wee let it paſs, that ſomwhile ſince, there were two Conſtitutions pretended to in *France*, one of [o] *Henrie* the Second, the other of [p] *Henrie* the Third, wherein they required that the Ships of Forraigners which ſailed through the Sea bordering upon *France*, ſhould ſtrike their top-ſail forſooth, in acknowledgment of that Dominion the *French* had over the Sea. But neither of them were autorized, or (as they ſpeak) ſimply verified by the Eſtates in Parlament, yea, nor ſo much as admitted into Cuſtom. Nay, the later of them was plainly rejected as to any effect in Law. And this the *French* Lawyers themſelvs confeſs

[n] *Cod. Hen. 4. lib. 3. tit. 1. cap. 2.*

[o] *Ann. 1555.*

[p] *Ann. 1584.*

in a [q] notable case between som Merchants of *Hamburgh*, that were *Plaintiffs*, and *Michaël Butardus* and others *Defendants*, in a Parlament held at *Tours*, in the time of *Henry* the Fourth. But that ceremonie hath by most ancient right and custom been observed and paid to the ships of the Kings of *England*, out of respect, and in acknowledgement of their Dominion, as is shewn in the following Book, where wee treat of this particular more at large. I know very well, [r] it was ordained by an Edict of the French King, that one third part of all goods, recovered out of the Sea, should belong to the King, another to the Admiral, and the remainder to the Sea-men that found them. And that the French do reckon very many Commanders in Chief at Sea, or Admirals in a line somtime continued, and somtime interrupted, which for the most part they begin from the time of *Philip* the son of S^t. *Lewis*; that is, from the year MCCLXXXIV. as is to be seen in [s] *Joannes Feronius*, [t] *Stephanus Paschasius*, and others. But that division of goods recovered out of the Sea beeing simply considered, doth prove any Dominion over the Sea, no more then the Tenths of any Prizes taken from an Enemie at Sea, which, by the grant of the King also, were allotted to the [u] Admiral of the Navie. Rights of this nature are grounded upon the consent of persons, to wit, subjects; transferr'd unto the King, not upon any title of Dominion, whereby any Pretence may bee made to an acquiring of the Sea it self; and they are paid no otherwise then Impost or Customs, in the importation or exportation of Merchandise. But no man (I suppose) will imagin that from such Impost or Customs upon Merchandise any proof may bee

[q] *Lud. Servinus in Pla.it. vol. 2. Placit. 11, 12. dec. 1592. pag. 262. b. Edit. 1609.*

[r] *Edict. Franciſc. 1. promulg. 1543. art. 11. Choppin. de dom. Franc. lib 1. tit. 15. & Edict. Franc. tom. 3. tit. 2.*

[s] *Catalog. Admiral. Franc.*
[t] *Recerches, lib. 2. cap. 14.*

[u] *Edict Fran. Tom. 3. tit. 2. Conſtit. 4. & 5.*

bee made of a Dominion over thoſe paſſages through which the Merchants ſail before they arrive. Neither indeed was there any ſuch cuſtom as this in uſe among the *French*, before the time of *Francis* the firſt; that is to ſay, plainly, not beeing Lord of the Sea, hee deſired to bee and was made a Sharer of thoſe goods which ſhould bee drawn by his ſubjects, out of any Sea whatſoever. Whereas the King of *Great Britain* by virtue of his Dominion over the Sea, is wont to take as his own whatſoever is left or loſt in the ſea, beſides other emoluments of the like nature, and that by ſo ancient a right, as (for ought wee know) bear's a date no leſs ancient then the Kingdom it ſelf. And as for thoſe Admirals of *France*, they were no other then Chief Commanders of Navies and Perſons, and of the Forces by ſea, and Judicatories at home: but not qualified as Preſidents of a Sea-Province or Territorie, as the *Cuſtodes ipſius Maris*, the Guardians of the ſea among the *Engliſh*, and the Admirals of *England*. But more of this in the *Second Book*. Nevertheleſs, from what hath been alleged concerning the Cuſtoms, Opinions, or Conſtitutions, among the *French*, I ſuppoſe it ſufficiently appear's, that they do alſo acknowledg, that private Dominion over the ſea, is not repugnant to the Law either of Nature, or Nations; which ſerve's fully for the clearing of the point in queſtion.

The

The private Dominion of the Sea, according to the received Customs of the Danes, *the People of* Norway, *the* Swedes, Polanders, *and* Turks.

Chap. XIX.

WEE finde clear Testimonies in the Customs of other Nations, also of *Europe*, touching private Dominion of the sea; as the *Danes*, the people of *Norway*, the *Polanders*, to whom may bee added also the *Turks*. Wee have observed by the Tolls or Customs of *Denmark* and *Norway*, what Revenue the King of *Denmark* raiseth out of the very Navigation of the *Baltick* Sea (as is commonly known) and what is paid out of the Roialtie of the *Norwegian* sea to the King of *Norway*, who at this time is also King of *Denmark*. For, in the year MDLXXXIII. *Frederick*, the second, King of *Denmark* and *Norway*, made a Grant of the use of the Northern or *Norwegian* sea, for a certain time, to our Merchants of the *Muscovie* Companie in such a manner, as if hee had rented out any Land whereof hee stood fully seized and possessed. Hee limited the Grant also with such conditions, as hee thought fit. The publick Instruments or Records about this Particular, are[a] yet extant; whereby the King had an annual Tribute in recompence, other Merchants were excluded, and the Grant it self was to continue no longer then the Peace made between that King and the *Moscovit*. Wee read also in the ancient Histories of *Denmark*, of King *Harald Hildetan*; *that no man did presume to usurp a Domination in*

[a] *In Thesauro Cottoniano.*

in the Sea without his conſent. And that which follow's next, ought eſpecially to bee taken notice of as to this Particular, *becauſ the Empire of Land and Sea was once divided in the Republick of Denmark.* And *Olo* (who afterwards was King) ſucceeding his Father *in the Dominion of the Sea, vanquiſh't* LXX *Kings of the Sea by Sea-Fight.* Which things are written by [b] *Saxo Grammaticus,* and other alſo of that kinde. And in the [c] Treatie held at **Koppenhagen** betwixt *Chriſtiern* the fourth of *Denmark,* and *Gujtavus Adolphus* of *Swedland,* the *King of* Swedland *renounceth the right, Soveraigntie, and Dominion of the Sea,* and the other Roialties by him formerly claimed over the ſaid ſea, *in* Norway, Norland, *and in the Juriſdiction of* **Wardhuſen.** But touching the Sea of *Norway,* as it lie's more Northward, wee ſhall add more at the latter end of the ſecond Book.

[b] *Daniæ Hiſt. lib. 7.*

[c] 20 *Jan.* 1613. *in Rot. Tract. Amicit. Temp. Jacobi Regis.*

Mention is made likewiſe of the Sea belonging to the Realm of *Poland,* and the Dominion thereof, in that Promiſe which was made by the *French* Ambaſſadors, in the name of *Henrie* III of *France,* when hee was elected King of *Poland. The aforeſaid Ambaſſadors do promiſe, in the name of the moſt illuſtrious King now choſen, that aſſoon (God willing) as hee ſhall com to his Kingdom, hee will at his own charge maintain a convenient Navie, ſufficient to defend the Ports and the Soveraigntie of the Sea, belonging to the Kingdom and the Provinces adjoyning, even to the utmoſt bounds of the whole Dominion of Poland;* as it is recorded by *Janus Januſzowskius* in his [d] *Syntagma* of the ſtatutes of *Poland.* But the *Turkiſh* Emperor, (who by Conqueſt ſucceeded in the right of the Emperors of *Conſtantinople,* and ſo purchaſed both the *Ægean* and *Euxin* ſea, calling this the *black,* the other the *white ſea*) is wont ſolemnly to intitle himſelf *Lord both of the white and*

[d] *Lib. 3. tit. 1. fol.* 109.

and black sea; as you may see in the League betwixt *Achmet* the *Ottoman* Emperor, and *Henry* the IV. of *France*, made above thirty years since, and [e] printed both in the *French* and *Turkish* Tongue. Moreover, in the same League, the *Turk* grant's the *French* free leav to Fish, and search for *Coral*, in certain Streits and Creeks of the *African* Sea, within his Kingdoms of *Algier* and *Tunis*. And hee farther confirm's all that had been granted to them by his Predecessors, for freedom of Fishing in those parts. In like manner [f] *Coriolanus Cippicus*, relating the Actions of *Pietro Mocenigo*, General of the *Venetians*, saith; *The Ottoman Emperor built two Castles very well fortified, over against each other, on both sides the Hellespont in its narrowest passage, which hee stored with Ordnance of an extraordinary bigness, and charged the Governors of the Castles to shoot and sink any ship, that should endeavor to pass without leav.* Which is plainly to domineer over the Sea, and agreeable to his Title, of *Lord of the White and black Sea*. Neither is that to bee sleighted here, which wee finde in the Letters of *David*, Emperor of *Ethiopia*, or the *Abassins*, to *Emmanuël* King of *Portugal*. Hee entituleth him [g] *Lord of* Africa *and* Guinee, *and the Mountains and Island of the Moon, and of the Red Sea,* Arabia *and* Persia, *and* Armutia, *great* India, *&c.* Hee useth here an *Hyperbole*, after the manner of the *African* Princes, and attribute's those things to *Emmanuël* which were none of his: But in the mean time, hee admit's that hee might have been Lord of the Red Sea, as well as of any other Territorie, and that that Title doth not intrench upon the Law of Nature or Nations, any more then this.

[e] 20 *Martii*, 1604. *Parisiis*, 1615.

[f] *De Asiatico Bello, lib.* 2.

[g] *Apud Franciscum Alvarum de rebus Æthiopicis, & Damianus à Goes, lib. de Æthiopum moribus.*

Now that wee may at length conclude this part touching the Dominion of the Sea, as admitted among

among thoſe things that are lawful, and received into the Cuſtoms of Nations; there are not onely very many Teſtimonies every where (as hath been ſhewn you) concerning it; but nothing at all (I ſuppoſe) can bee found to impugn it in the Cuſtoms of thoſe Nations that have been of any note in later times; unleſs it bee where ſom of them, that are Borderers upon the Sea-Dominions of others, do ſtrive to violate or infringe the Rights of their Neighbors, under pretence of that Natural and perpetual communitie, ſo often inſiſted on out of *Ulpian* by ſuch Writers, as too much prefer that obſolete Opinion before the Univerſal and moſt antient Cuſtoms of Nations. Of which kinde truly the firſt Article of that League ſeem's to bee, which was made above twentie or about thirtie years paſt, betwixt the States of the *United Provinces* and ſom of the *Hanſ-Towns*, as it was tranſlated out of Low-Dutch by a [h] Dutch-man, to this effect: *That this Conjunction or Union ought not to bee intended for the offence of any, but onely for the preſervation and maintenance of the freedom of Navigation, Commerce and Merchants, in the Eaſtern and Northen Seas, and alſo in all Rivers and Streams running into the Eaſtern and Northern Seas; nor ought any other thing to bee meant in this place, ſo that their Citizens and Subjects joyned in this League reſpectively, may according to the Law of Nations uſe and enjoy the Liberties acquired and obtained, together with the Rights, Privileges, and Cuſtoms received from their Anceſtors, throughout the Eaſtern and Northern Seas aforeſaid, and in the aforeſaid Rivers, Streams, and Waters, without any Let or Impediment.* They promiſe alſo to aid each other, in oppoſing any that ſhould hinder ſuch a freedom of Navigation in that Northern and Eaſtern Sea;

[h] *Eman. Meteranus, Hiſtor. Belgic. lib. 36. & apud Gaſper. Klockum, lib. de Contributionibus, c. 14.*

that is to say, the *Baltick*, and that which washeth the Coasts of *Denmark*, *Lituania*, *Pomerania*, and the Dominions of the King of *Poland*: where it seem's they pretend not onely Rights and Liberties peculiarly granted to them long since, but also to the very Law of all Nations. It is no hard matter to guess what the Intent of that League might bee; For, about that time, the King of *Denmark* had raised his Toll in the *Baltick* Sea, and in like manner the King of *Poland* within his Territories by Sea. And that for the maintenance of that Dominion which they enjoyed; which that kinde of League betwixt the States of the *Hanse-Towns* and *United Provinces* did seem to oppose. But, to pass over these things, seeing a private Dominion of the Sea, which is the point in Question, is founded upon such clear Testimonies, out of the Customs of so many famous Nations both antient and modern (whereto wee shall add many other also, when wee treat of the *British* Sea in the next Book) nothing now, I suppose, hinder's why wee may not determine, that the Sea is capable of Dominion as well as the Land, not only by the *Law Natural-Permissive*, but also by the Law both *Civil* and *Common of divers Nations*, and in many places almost according to the *Intervenient Law* (which in cases of this nature is the surest demonstration of the *Natural-Permissive*) unless there remain any impediment in the objections, which are next to bee handled.

An Answer to the Objection, concerning Freedom of Passage *to* Merchants, Strangers, *and* Sea-men.

CHAP. XX.

THe usual Objections (as hath been more fully shewn before in the second Chapter) are derived, som from the Freedom of Commerce, Travel, and Passage, pretended to bee common to all: Som also from the very Nature of the Sea: And others out of the Testimonies of Writers. As to what concern's the first sort; the Offices of humanitie require, that entertainment bee given to Strangers, and that inoffensive passage bee not denied them. So [a] *Gratian* out of [b] *Augustin* saith, *It is to bee observed how the war of the* Israëlites *became just-against the* Amorites: *For, they were denied an inoffensive Passage, which ought in all equitie to lie open by the Law of humane Societie.* And [c] Cicero saith, *It is an inhumane thing, to denie Strangers the use of a Citie.* Verie many other Passages there are of that sort, which seem to strengthen the *Objection*; to wit, as it relates unto the Office of Humanitie, not disturbed by war, fear, jealousie, enmities, or any other of the same kinde. But what is this to the Dominion of that thing, through which both Merchants and Strangers are to pass? Such a freedom of Passage would no more derogate from it, (if so bee it were without question free and open to all upon that accompt) then the allowing of an open waie for the driving of Cattel, or Cart, or passing through upon a journie, or any other Service of that nature, through

[a] *Caus.* 23. *Quest.* 2. c. 3. & videsis *Hug. Grotium de Jure Belli & Pacis, lib.* 2. *cap.* 2. §. 13.
[b] *In Numer q.* 41.
[c] *Offic. lib.* 3.

another man's Field, could prejudice the Ownership thereof. Suppose it bee granted, that, by the Law of all Nations, the *Spaniards* had a free Passage over the *Pyrenean* Mountains into *France*; the *French* over the *Alps* into *Italie*; the *Italians* into *Germanie*: What doth this concern a Dominion of the *Pyrenies* or the *Alps*? And for any man to allege here, what is commonly talked, of the lighting of one Candle by another, of the not denying a common use of Water, and other things of that nature, it is plainly to give over the disquisition of *Law* and *Right*, to insist upon that of *Charitie*. At the request indeed of *Asclepiades* Bishop of the Citie of *Chersonesus*, under the Emperors [c] *Arcadius* and *Honorius*, certain persons, who had taught the barbarous people the Art of building ships, whereof they were ignorant before, were for Charitie's sake freed from the pains of Prison and punishment. And though the Art of those that taught them was no whit the less, becaus of that skill which the Barbarians had gained; yet by the Law, it was death to communicate that Art unto them: And at this day, there are other instances of the same nature: So that it in no wise diminisheth from any man's Right or Power, to permit another to participate of what is his, when hee himself loseth nothing thereof. And that wee may determine this point in brief, it is most evident from the Customs of all times, that free Passage (as they call it) is wont ever to bee so limited by Princes in their Territories, that it is permitted or prohibited, according to the various concernments of the Publick Good, and not otherwise. *Albericus Gentilis*, upon that Passage concerning the *Amorites*, saith, [d] *I am of the same opinion, with* Augustine, *in case there bee no fear of hurt,*

[c] *C. Theodos. lib. 10. tit. 40. l. 24. & C. just. tit. de Pœnis, l. 25.*

[d] *De Jure belli, lib. 1. cap. 19.*

hurt, and an aſſurance that no hurt may bee don. Princes are concerned to bee warie and careful, that they admit no ſuch ſtrangers, or Commerce, where, *pro re natâ*, the Common-weal may receiv any damage thereby. Upon which ground alſo it is often provided in Leagues; [c] *That it ſhall not bee lawful for either Partie to ſail unto each others Ports, Coaſts, or Harbors*, (and this when neither of them hath any right to the waie by which they paſs) *with ſuch a number of ſhips or Men of War, as may give a juſt occaſion of any fear or jealouſie that force is intended, except leav bee firſt had of that Partie under whoſe Juriſdiction thoſe Places are; or unleſs they bee driven thither by Tempeſt or ſom other neceſsity, to avoid a greater force, or the danger of Shipwrack.* According to the fear or ſuſpition of the Lord in poſſeſsion, and at his diſcretion, all Merchants, Strangers, and Foreigners whatſoever may bee prohibited, unleſs ſom other ſpecial right or cuſtom do intervene. And [f] *Ariſtotle* ſaith plainly, Proviſion ought to bee made by Laws, *with whom ſubjects may, or may not converſ.* [g] *Bodin* alſo ſaith well, *That the Laws of Commerce are contained in the particular Compacts and Agreements of People and Princes.* And in another place hee add's, *It is lawful to forbid a Foreigner from entring the Borders, and alſo to force him out if hee have entred the Borders, not onely if a War bee on foot, but alſo in time of Peace, that the manners of the Inhabitants may not bee corrupted by converſ with Strangers.* But that Wars have been lawfully undertaken for a denial of Commerce, unleſs the denial were given contrary to ſom antient League, or unleſs that freedom depended upon ſom ſpecial Title to Commerce, wee do as eaſily deny as any other man can affirm. And though, according to the opinion of [h] *Franciſcus Victoria*, who alſo is followed chiefly by [i] *Joannes Solorzanus*

[c] *Inducie Hiſpan. & Ordin. Fœderat. Belg. Anno* 1609. *& Art.* 12. *&c.*

[f] *Polit. lib.* 7. *cap.* 6.

[g] *De Repub. lib.* 1. *cap.* 7. *&* 6. *& vide eum, lib.* 4. *ca.* 1. *& lib.* 6. *cap.* 2. ubi de Aditu ad Moluccas.

[h] *Tit. de Indis.*

[i] *De Jure Indiar. lib.* 2. *cap.* 20. § 55.

I. V. D. it bee affirmed, that the *Spaniard* had a lawful Right to ſubdue the *Indians*, becauſ they denied Commerce and Entertainment; yet they are in plain tearms oppoſed by [k] *Ludovicus Molina*, who will have no Nation or Common-weal bound, either with or without danger to it ſelf, to admit Commerce or Foreigners, but in caſe of great and imminent neceſsitie, or unleſs any League, Agreement, or ſom other ſpecial privilege do intervene. But there are other pretences not a few which the *Spaniards* allege for the Conqueſt of the *Indies*: For, they pretend alſo a Right of Diſcoverie, primarie occupation, Converſion to the Faith, and other things of that nature, beſides the Donation of the *Pope*. Of all which, *Solorzanus* treat's at large. And it is ſtrange, how the *Spaniards* ſhould have a Right to acquire the *Indies*, upon a denial of Commerce, ſince it is [l] very well known, that both They and the *Portugals* do openly profeſs, that they may lawfully prohibit Commerce in both the *Indies*. Nor doth it prejudice the point at all, that according to the Imperial Law, no Prince, nor any other holding Royalties by his Grant, can [m] forbid men paſſage in the common Road without ſom juſt cauſ, which muſt bee determined in an Imperial Diet; nevertheleſs, it is wreſted by ſom to prove a freedom of Navigation at Sea. For that happen'd by a particular Law, agree'd upon by the Eſtates of the Empire, who themſelvs alſo are ſubject to a *Diet*. But other Nations that are under ſeveral and diſtinct Soveraignties, have not as yet made any ſuch Agreement, that there ſhould alwaies bee a libertie of Paſſage to and fro; nor have they (like the *Germanes*, and others within their Dominion) referr'd themſelvs unto an Umpire to determine the buſineſs.

[k] *De Juſtitiâ & Jure, Tract.2. Diſputat.105.*

[l] *Georgius de Cabedo Deciſ. Luſitan. part.2. Deciſ. 47. & diploma Regis Hiſpan* Mari Libero. *Hug. Grot. ſubnexum.*

[m] *Rothenſal. de Jure Feudali, cap 5. de Regalibus, concluſ.21. Sixtinus de Regalibus, lib.2.cap.2. &c.*

An Anſwer to that Objection concerning the uncertain fluid nature of the Sea, *and its continual Alteration. It is proved, that* Rivers *alſo, and the* adjoyning Aër *(which are more fluid and uncertain) may becom appropriate.*

CHAP. XXI.

BUT they ſay, that the very Nature of the Sea render's it unfit for privat Dominion; both becauſ it is ever in Motion, and in no wiſe remain's the ſame; as alſo becauſ a convenient matter, as well as Inſtruments, are wanting therein to make a diſtinction of Bounds; without which private Dominions cannot well conſiſt: yea, and becauſ by reaſon of its vaſt and ſpatious Body, it is alwaies ſufficient for all. As to what concern's its fluid Nature, are not Rivers and Fountains much more in a perpetual Flux or Motion? Rivers alwaies run forward, wherewith the Sea beeing compared, it ſeem's to ſtand immovable, as ſaith [a] *Strabo.* And [b] *Euſtathius* ſaith, that *Homer* therefore call's the Sea by the name of a ſtanding Pool; *becauſ it run's not forward (as Rivers do) but is very ſtable.* And [c] another ſaith, *the Sea ſtands without Motion, as it were ſom dull heap of matter that Nature could not bring to perfection.* But ſuppoſe wee grant it bee ſo fluid, as is uſually ſaid of the moſt Northernly Seas and Channels; yet certainly the Channels and places out of which the waters flow, remain ever the ſame, though the waters themſelvs do ſhift and change

[a] *Geograph. lib.* 1.
[b] *Ad Iliad.* v.
[c] *Seneca, Suaſor.* 1.

change continually. Nor yet can it be ſuppoſed that the Right of private Dominion over Rivers, is any whit prejudiced thereby. In the *Romane-Germane* Empire, Rivers, according to the Civil Law, are of publick uſe; yet they are reckoned in the *Emperor*'s [d] private Patrimonie, and among the Rights or Roialties belonging to his Exchequer: ſo that either the *Emperor* or others by his Grant, have in like manner a yearly Revenue out of the *Fiſheries* in them. Upon which accompt it come's to paſs, that they of *Lombardy*, and other particular People throughout *Italy*, enjoie all the Rivers of their Territories, as proper and peculiar to themſelvs by Preſcription, as wee are told by [e] *Cæpola*. Nor is any thing more common, then an aſſerting of the private Dominion of Rivers as well as their Banks, in the Laws of *Spain*, *France*, *Poland*, and *Venice*; and in a word, of all Nations whoſe Cuſtoms are known to us. Nor, as to what concern's this Objection (fetch't from the fluid Conſtitution of the ſea) is there any difference in nature between a greater and a leſſer, a private and a publick River. Even [f] *Ulpian* himſelf concerning Rivers, ſaith, *There is no difference between a private River, and other private Places.* And [g] *Martianus*; *If a man hath fiſh't all alone many years in a Corner of a publick River, hee may hinder any other from uſing the ſame Libertie.* Moreover, oftentimes heretofore in the *Romane* Empire, Rivers were made over as well as other Parts, after the manner of Lands aſſigned. [h] *Siculus Flaccus* ſaith, *In ſom Countries, even the Rivers themſelvs are aſsigned out by meaſure. But in ſom the ſubceſive or remanent part onely is left out unaſsigned; and yet it is excepted out from the parts aſsigned, as belonging ſtill onely to the river it ſelf.* After the ſame manner alſo [i] *Aggenus Urbicus*. For, it was never conceived, that the

[d] *Feud. lib. 5. tit. Quæ ſint Regalia. Rothenſal. de Jure Feud. cap. 5. Concluſ. 23. & 24. Sixtinus de Regalibus, lib. 2. cap. 3. &c.*

[e] *De Servitut. Ruſtic. Prædiorum, cap. 31.*

[f] *Lib. 1. § 4. ff de Fluminibus.*

[g] *L. 7. ff. de Diverſ. Temp. Preſcript. Vide l. 45. ff. de Uſucapionibus.*

[h] *Lib. de Conditionibus Agrorum.*

[i] *Comm. ad Jul. Frontin. de limitibus Agrorum.*

the Rivers were otherwise acquired by the People or Emperor of *Rome* then the adjoyning Lands; according to that of the river *Danubius*, speaking to the Emperors;

[k] *Danubius penitis caput occultatus in oris,*
Totus sub vestrâ jam Ditione fluo:
Et quà Dives aquis Scythico solvo ostia Ponto,
Omnia sub vestrum flumina mitto Jugum.

[k] *Ausonius, Epigr. 4.*

Danubius, I, whose Fountain few do know,
Now wholly under your Dominion flow:
And when full-charg'd run to the Euxin sea,
I make all Rivers to you Tribute pay.

Wee know, that an Island newly sprung up in a river, as also a Chanel that is deserted, is even by antient Custom [l] common to such, as upon the Bank of any river do possess Lands that are not limited, that is to say, after the manner of Lands or Possessions; unless there bee som special Law or Custom to the contrary. And touching the Division of such an Island according to the nature of several Lands, situate near one Bank or both, *Bartolus in Tiberiade*, hath written long since; but of later time *Joannes Buteo*, *Baptista Aymus*, *Antonius Maria*, *Joannes Gryphiander*, and others. Therefore, in that case, a Proprietie of the Chanel, and so of the River (even of that which according to the Civil Law, is of publick and common use; as well as of a Field that hath a common Thorowfare) was common before to the Owners that had Lands lying on both sides. By the same reason almost, an Island newly sprung up in any sea, that never was possessed by any, and whatsoëver shall bee built upon it, become's his that first enter's it by

[l] *L. 7. 29, 30 & 65. F. de Acquir. Rer. dominis & Instit. de Rerum divis. § Insula.*

occupation: For, the Chanel and that Sea, at firſt belong'd to all men in general. But by virtue of that Universal Compact or Agreement (before mentioned) whereby things not yet poſſeſſed, were to becom the Proprietie of him that ſhould firſt enjoie them by Occupation; hee that ſhall ſo poſſeſs them by Occupation, receiv's the Iſland and Building as it were by a Surrender of Right from former Owners. Seeing therefore that a Proprietie and private Dominion of Rivers hath been every where acknowledged, why ſhould it not bee acknowledged in like manner that there may bee Owners of any Sea whatſoêver? Since the fluid nature of water can no more hinder a Dominion in the one, then in the other. Yea, the Rivers themſelvs are onely leſſer Seas, as alſo the Fenns and Lakes; even as the Sea it ſelf (as to its fluid Conſtitution) is no other then a River, Fen, or Lake, differing onely in bigneſs from the reſt: And ſo it hath been taken by the Antients. In the very ſtorie of the Creation, all the Gatherings together of the waters are called Seas; which hath been obſerved alſo by the [m] Fathers to this purpoſe. There are alſo very eminent examples in holy Scripture touching the two Lakes of *Aſphaltites*, and *Tiberias*, both which are equally called Seas, *Aſphaltites*, is by *Pliny*, *Ptolomy*, *Joſephus*, *Solinus*, and *Vitruvius*, tearm'd a Lake: But by *Moſes* [n] the *Salt Sea*; and by moſt of the late Writers, *the dead Sea*. *Tiberias* is in like manner by the Antients, and alſo by S^t [o] *Luke*, called a Lake; by the other *Evangeliſts* a Sea, as alſo in the Syriack and Arabick Tranſlation of St *Luke*. And [p] *Ariſtotle* ſaith, that about the Mountain *Caucaſus*, there is a Lake or λίμνη, *but the neighbouring People call it a Sea*. Hee ſpeak's of the Lake *Mæotis*, which by reaſon of that abundance of Waters

[m] *Eucherius ad Geneſ.* 1. *D. Hieronymus, & alii.* Adde *Jo. Philoponum de Mundi Creatione, lib.* 4. *cap.* 6.
[n] *Gen.* 14. 3.
[o] *Luc.* 5. 1.
[p] *Meteorologic. lib.* 1. *cap.* 13.

Waters which it diſchargeth through the *Cimmerian Boſphorus* into the *Euxin Sea*, is by the Antients called [q] *Mother of the Sea, or Mother of the* Euxin *Sea.* From whence alſo it was the opinion of ſom, that *Mæotis* ſtood in the ſame relation unto *Pontus, Propontis*, and the *Ægean* Sea, as the Ocean doth to the *Mediterranean.*

[q] *Herodotus, in Melpomene. Plin. lib. 6. cap. 7. Dionyſ. Afer, & ad eum Euſtathius.*

Oceanúmque negant ſolas admittere Gades,

They do deny, that Cadiz **Streight**
Alone, admit's the Ocean's Freight;

As [r] *Lucan* ſaith concerning it. But [s] *Agathia* tell's us, that in *Juſtinian's* daies, it was called *The little Sea.* And ſaith [t] *Feſtus Avienus* to *Probus*; *Thou did'ſt queſtion mee* (*if thou doſt remember*) *about the ſituation of the* Mæotick *Sea.* By which means it hath happen'd, that even at this day it is called *Mar delle Zabach*, and *Mar della Tana.* So ſeven Lakes of the River *Po* in *Italy* are uſually tearmed [u] *Seven Seas.* And wee read in [x] *Caſsiodorus*, that *Addua*, a River of *Ciſalpin Gallia*, emptie's it ſelf into the Lake called *Lago di Como*, as into its proper Sea. Hence it is, that in *Heſychius* and *Suidas*, a Lake or λίμνη denote's the Ocean and Sea, and ποταμὸς, or a River, the Ocean it ſelf. Nor is it in this place impoſsible, that *a River ſhould contend with the Sea*; However, otherwiſe it hath been uſed as a Proverb, of ſuch as ſtrive with men mightier then themſelvs. Alſo in *Homer*,

[r] *Pharſal. 3.*
[s] *Hiſtor. lib. 13.*
[t] *In oris Maritimis.*
[u] *Plin. lib. 3. c. 16. Herodian. lib. 8.*
[x] *Variar. lib. 11. Formul. 14.*

——[y] βαθείης βένθεσι λίμνης.

[y] *Iliad. 9.*

The depth of a deep Lake is uſed for the depth of the Sea. And in another place hee put's περικαλλέα λίμνην, *a very fair Lake* in ſtead of the Sea, as it is obſerved alſo by [z] *Olympiodorus.* Yea, ſom of the Antients

[z] *Ad Ariſtot. Meteorolog. lib. 1. prax. 16.*

have ſaid, that the Ocean it ſelf is one of thoſe [a] four huge Rivers, which ſpring out of ſuch a Hell, or ſuch a deep Gulf; as [b] ſom feign to bee found towards the North; the other three beeing impriſoned in ſecret Paſſages of the Earth. Moreover, *Lucan* call's the *Britiſh* Ocean,

[a] *Plato in Phædone.*

[b] *Vide Girald. Cambrenſ. Topograph. Hibern. diſt. 2. cap. 14.*

——— [c] *Incerti ſtagna profundi*

[c] *Pharſal. 2.*

An unſtable deep ſtanding pool.

And in barbarous Latin, the word *Mariſcus*, as a Diminutive of *Mare* the Sea, is uſed in many Places for a *Marſh* or Lake, under which notion alſo it hath been Tranſlated into ſom other Languages, beeing varied according to their divers forms of Expreſsion. Other obſervations have been made by [e] others to the ſame purpoſe. So then, both in Subſtance, Nature, and Name, the Seas, Rivers, and other Bodies of Waters (ſo far as concern's the Point in queſtion) are all the ſame, that whatſoëver may bee ſaid of theſe, may bee applied in like manner alſo to the other; ſave that there may ſom difference bee alleged onely from the largeneſs of the one and the narrowneſs of the other, which in the Point of Dominion (as it relate's to Poſſeſsion) is of no account. Add moreover, that the uſual Objection touching their fluid Nature, or the continual ſhifting of Waters in the Chanel, doth here no more prejudice the cauſ of Dominion and Poſſeſsion, then the fluid nature of the Aër doth the Dominion and Poſſeſsion of that ſpace which confine's a Houſ from the Foundation upward. That ſpace ſeem's as a Chanel to the whirling Aër; whereof notwithſtanding hee, according to the Civil Law, is the undoubted Owner, who poſſeſſeth the Ground and Buil-

[d] *Claudius Salmaſius, in Plin. Exercitat. ad Solinum, pag. 577.*

[e] *J. Druſ. Obſ. 9. cap. 20. & ad difficil. loca. Numer. cap. 133. & Albericus Gentilis in Lectionibus Virgilianis, cap. 17. Cæl. Rhodigin. lect. Antiq. lib. 26. cap. 14.*

Building. Hereupon * Servitudes have been imposed, against the rearing of Houses higher then ordinary, also against hindring of Light, or Prospect, and other of that kinde in the very ambient Aër; So that where a * Prohibition of a new Building hath issued, *Pomponius* saith, *the Aër ought to bee measured as well as the Ground.* And it is evident, that the Aër is his who is owner of the plot of ground. So that as to that saying of *Paulus*, that a Tree growing in the very Confine betwixt two Lands is [g] common to the Owners on both sides, for so much as grow's in the ground of either; *Joannes Buteo* discoursing of the Division of the fruit of such a Tree, saith, [h] *wee must suppose the ground to bee the Aër it self that is spread over the ground*, which hee measureth by direct lines from the outmost boughs. And therefore, surely, wee are owners of the ground, houf, and space, which wee possess in several as owners, that every one, for his best advantage, may freely and fully use and enjoy his own bordering Aër, (which is the element of mankind) how flitting so ever it bee, together with the space thereof in such a manner, and restrain others thence at pleasure, that hee may bee both reputed and settled owner thereof in Particular. Much less then doth the fluid nature of Waters, which is far less then the other, in any wise hinder an ownership or Dominion over them. And even those things which naturally are thus flitting, do notwithstanding in a Civil sense remain ever the same; as the ship of *Theseus*, a Houf, or a Theatre, which hath been so often mended and repaired, that there is not so much as one part or plank left of the first building.

But they which make use of so frivolous a subtilitie

* *Servitutes sunt Jura Prædiorum.*

* *In novo Opere Nunciato.*

[f] *L.21. ff. tit. quod vi aut Clam. § 2.*

[g] *L.83 ff. tit. Pro Socio.*

[h] *Tract. de Divisione Fructûs arboris in confinio natæ.*

tie as this to oppoſe a Dominion of the Sea, ſhould bee turned over to the Philoſophers; eſpecially [i] *Heraclitus*, and *Epicharmus*, whoſe Doctrine was, that every thing is ſo changed, altered, and renewed every moment, that nothing in the world continue's at this inſtant, the ſame, that it was in the inſtant immediatly going before. *No man* (ſaith [k] *Seneca*, in imitation of *Heraclitus*) *is the ſame in the Morning, that hee was the day before. Our Bodies are hurried like Rivers. Whatſoëver thou ſee'ſt, run's with time. Not one of all thoſe things that are viſible, continue's. I, even whil'ſt I ſpeak of theſe Changes, am changed my ſelf.*

[i] *Diog. Laert. in Heraclito, &c.*

[k] *Epiſt. 58.*

It was ſeriouſly affirmed alſo by *Heraclitus*, that not onely the ſame River could not receiv a man twice, but alſo that the ſame man could not enter twice into the ſame ſtream. So that *to caſt all into* Heraclitus *his River*, became an uſual Proverb, to expreſs a continued and perpetual change of every thing from it ſelf. But let ſuch as dream, that the fluid inconſtant nature of the Sea diſprove's the private Dominion of it; entertain the ſame opinion (if they pleaſ) with theſe men, of things that fall under a Civil conſideration, and then they muſt of neceſſity grant alſo, that themſelvs are not Owners or Poſſeſſors, either of Land, Houſes, Clothes, Monie, or any other thing whatſoëver.

An Anſwer to the Objections touching the defect of Bounds *and* Limits *in the Sea; as alſo concerning its* magnitude *and* inexhauſtible abundance.

CHAP. XXII.

THe Objection, touching the defect of *Limits* and and *Bounds*, follow's next. And truly, where Dominions are diſtinguiſhed, nothing can bee more deſirable then known and certain Bounds in every place: Nor was it without cauſ, that [a] *Terminus*, the God of Bounds, was received heretofore among the *Romanes* for the God of Juſtice. But the nature of *Bounds* is to bee conſider'd either upon the Shores, or in the open Sea. And why Shores ſhould not bee called and reputed lawful Bounds, whereon to ground a diſtinction of Dominion in the Sea, as well as Ditches, Hedges, Meers, rows of Trees, Mounds, and other things uſed by Surveyors in the bounding of Lands, I cannot fully underſtand. Nor is [b] *Sylvanus* any whit more a Guardian of Bounds, then *Neptune*. But yet a very learned man ſaith, [c] *there is a Reaſon in nature, why the Sea under the aforeſaid conſideration cannot bee poſſeſſed or made appropriate; becauſ poſſeſsion is of no force, unleſs it bee in a thing that is bounded; So that* Thucydides *calls a Land unpoſſeſſed,* ἀόριστον *unbounded; and* Iſocrates *the Land poſſeſſed by the* Athenians, *a Land bounded with Limits. But liquid things, becauſ of themſelvs they are not bounded, cannot bee poſſeſſed, ſave onely as they are conteined in ſom other thing; after which manner Lakes and Ponds are poſſeſſed, and*

[a] *Plutarch. in Numâ.*

[b] *Sylvanus*, made by Heathens the God of the woods, and *Neptune* of the Sea.

[c] *Hugo Grot. de Jure Belli ac Pacis, lib. 2. cap. 11. §. 3.*

and Rivers alſo, becauſ they are conteined within Banks. But the Sea is not conteined by the Earth, it beeing of equal bigneſs, or bigger then the Earth; ſo that the Antients have affirmed the Earth to bee conteined by the Sea. And then hee bring's divers Teſtimonies of the Antients, whereby it is affirmed more then once, that the Sea is the girdle or Bond of this Globe of Earth, and that fetching a compaſs, it incloſeth all the Parts thereof together; and it is very often ſaid by the Antients, that the Land is conteined and bounded by the water or Sea; as if the whole Earth made as it were one Iſland, beeing [d] ſurrounded by the Sea. But admit it were to bee granted (which, I ſuppoſe, neither that learned man nor any other will grant;) yet I do not well ſee, why the thing conteining ſhould not in truth bee bounded by the thing conteined, as well as this by that. May not a leſſer bodie that is ſpherical, or of any other form, beeing conteined by a greater which is every way contiguous to it, bee ſaid to bound and limit the Concave of the greater Bodie, as well as this to limit the Convex of the leſſer? But *Julius* [e] *Scaliger* ſaith very well of the Sea and Land; *That the one is not ſo conteined by the other, but that it may alſo contein. Nor are they ſo disjoyned from each other, but that they may both encroach upon each other and retire by Turns.* The Sea and Land mutually imbrace one another with crooked windings and turnings; this with Peninſula's, and Promontories butting forth, and Creeks bending inward; that working up its waves about all the Paſſages of its vaſt Bodie. Thus it is evident that the one indifferently ſet's Bounds to the other, no otherwiſe than Banks, and Lakes, or Rivers; which alſo appear's more evident in the [f] *Caſpian* Sea

[d] *Cicero in Somn. Scipionis.* & vide *Jo. Philopon. de Mundi Creatione, lib. 4. cap. 5.*

[e] *Exercit. 37.*

[f] A Sea near *Hircania*, like a huge Lake, beeing incompaſſed with Land, and hath no paſſage into any other Sea.

Sea that is encompassed with Land. And in like manner in the *Mediterranean*; before that *Hercules*, or (as the [g] *Arabians* say) *Alexander* the great did, by cutting the Mountains, let in the *Atlantick* Ocean through the streights of *Cadiz*. And thereby it is made up one single Globe, wherein divers Seas are bounded, as well as the Isles or main Land: as it is more clearly proved out of holy Scripture. There the waters are gathered together, and limited by their Places and [h] Bounds. And saith the Lord himself of the Sea, [i] *I encompassed it with my Bounds, and set Bars and Doors; and said, hitherto shalt thou com, but no farther.* And in another place, [k] *Hee gave unto the Sea his Bounds, his Decree unto the waters that they should not pass their Bounds*: So that it cannot bee doubted every Sea hath its Bounds on the Shore; as the Land it self. Nor had I made mention of this Particular, had I not found it impugned by so eminent a person. And truly there is but a very little more difficultie, to finde out *Limits* and *Bounds* in the main Sea, for distinguishing of private Dominions. Wee have high Rocks, Shelvs, Promontories opposite to each other, and Islands dispersed up and down, from whence as well direct Lines, as crooked windings and turnings, and angles, may bee made use of, for the bounding of a Territorie in the Sea.

[g] *Geograph. Nubiens. Climat. 4. part. 1.*

[h] *Damascen. de Orthodoxâ fide, lib. 2. cap. 9.*
[i] *Job* 38. 10.
[k] *Pro.* 8. 29.

Mille jacent mediæ, diffusa per æquora, terræ;
Innumeri surgunt Scopuli, montésque per altum.

A thousand Lands within the main do lie;
Rocks numberless, and Mountains rise on high
Throughout the deep.

The antient Cosmographers also reckon up the Seas of the world, no otherwise then Towns, Rivers, Islands, and Mountains, as beeing no less distinguished from each other by their respective Bounds. [l] *Æthicus* saith, *Every Globe of Land* hath XXX *Seas*, CCCLXX *Towns*, LXXII *Islands*, LVII *Rivers*, *and* XL *Monntains*,&c. After this also, hee reckon's the Seas of the Eastern, Western, Northen, and Southern Ocean one after another, after the same manner as hee doth the Provinces and their Isles. How truly, I dispute not; but in the mean time hee made no question, but that the Seas are sufficiently distinguished by their Names and Bounds. Add hereunto that useful invention of the *sea-man's Compass*, and the help of Celestial degrees either of Longitude or Latitude,together with the doctrine of Triangles arising therefrom. Also in those Plantations that in our time have been carried out of *Europe* into *America*, the degrees of Latitude and Longitude do serv the Proprietors in stead of Bounds; which with as little difficultie are found in the Sea. In like manner [m] som would have had the Tropick of *Cancer* and the *Equinoctial Line* to have been the Bounds in the Sea, for the limiting of that Agreement, which was to have been made in the year MDCVIII, between the States of the *United Provinces*, and the Houf of *Austria*. And in the late Agreement betwixt the Kings of Great *Britain* and *Spain*, [n] the *Equinoctial Line* is the Bound appointed in the Sea. Other Instances there are of the same nature: For, *Sarpedon* and *Calycadnus*, two Promontories of *Cilicia*, were designed as Bounds for distinguishing the Dominion of the Sea, in that League made betwixt the [o] *Romanes* and *Antiochus* King of *Syria*. Also, by Decree of the Emperor *Leo*,

[l] *In Cosmographiâ.*

[m] *Apud. Emanuel. Meteran. Rer. Belgic. lib.* 28.

[n] *Anno* 1630. *Art.*2.

[o] *Polyb. in Eclog. de Legationibus, cap.*35. *& Livius, decad.*4. *lib.* 8.

Leo, of which wee have alreadie ſpoken, the [p] *Fiſhing Epoches* or Fiſh-pens that were by men placed in the Sea lying over againſt their Lands, were limited to certain number of Cubits. The caſe was the ſame likewiſe touching the *Cyanean* and *Chelidonian* Iſlands, in the League made by the [q] *Athenians* with the King of *Perſia*; which hath been mentioned alſo before.

[p] An *Epoche* was a device to keep ſtore of Fiſh, made of Nets that were ſpread between Stakes driven into the Sea.

[q] *Plutarch. in vitâ Cimonis.*

Moreover, Pope *Alexander* VI and his Cardinals, or the King of *Spain*'s Agents made no ſcruple touching Bounds of this nature, when the King obteined that famous *Bull*, whereby hee had a Grant of the Weſtern world; but ſo to bee limited, that the thing given ſhould, in the hither part of it, bee bounded by an imaginarie Line drawn from the *Artick* to the *Antarctick Pole*, [r] *which ſhould bee diſtant from each of thoſe Iſlands called* de Los, Azores y cabo verde, *one hundred Leagues towards the Weſt and South* (which are the verie words of the Bull.) Whereupon [s] *Hieronymus de Monte*, ſaith, *Bounds were ſet in Heaven and in the Aër, in the time of Pope* Alexander VI *between the* Portugals *and* Caſtilians, *in dividing the Indian Iſles then newly diſcover'd by the degrees of Heaven; and ſo all that was found Eaſtward, was allotted to the* Portugals, *and that which lay Weſtward to the Caſtilians.* Certainly, in this place, no more regard was had to the portions of Land, whether Iſlands or continent, in the meaſuring of Bounds, then to the ſpaces of the Sea. Moreover, it is ordinarie among the Lawyers, even thoſe who are moſt earneſt for a Communitie of everie Sea, to limit an hundred miles [t] juriſdiction to the Lord of the adjacent Coaſt. Somtimes wee finde ſixtie. *It is in a manner received* (ſaith [u] *Bodin*) *by the common cuſtom of all*

[r] *Laërt. Cherubin. Bullar. Tom. 1. pag. 393.*

[s] *Tractat. de finibus regundis, cap. 7. 8.*

[t] *Bartolus Tract. de Tiberiade & D. D. in l. Inſulæ Italiæ ff. tit. de Judiciis.*

[u] *De Republ. lib. 1. cap. 10.*

Princes bordering upon the Sea, that for sixtie miles from the shore, any Prince may give Law to those that sail near their Coast; and it was so adjudged in the Case of the Duke of Savoy. Which hee observeth out of *Cacheranus* his decisions of *Piemont*. Yea, and it is maintained by very [x] eminent Professors of the Civil Law, that an Action at Law may bee allowed for regulating of Bounds in the Borders of the Sea. Therefore they sufficiently acknowledg the Custom of measuring and setting Bounds, even in the Sea.

[x] *Hieronym. de Monte, Tract. de Finibus regundis, cap. 39. Baldus, & alii ibi citati.*

But as to what concern's that saying of *Ambrose*; Geometram *audivimus*, Thalassometram *nunquam audivimus*, Wee have **heard of a** Geometrician, **one that measureth land; but never of a** Thalassometrician, **or one that could measure and lay out Bounds in the Sea**; This truly is rather a quibling of words, then any Argument against the point in hand. And the holy man speak's in that place, of the various lurking-holes, or holds of divers Fishes, which God hath appointed for them in the Sea, not touching a civil distribution of the Sea. Nor was there any reason why hee should speak thus of a *Thalassometrician*, *as a thing never heard of before.* For, wee know that even *Thalassometricians* were ordinarie among the *Grecians*, who had Dominions by Sea, with very frequent and various distinctions of those Dominions; And that the Sea was measured according to the Rules of Geometrie, no less then the Land. *Proclus* a famous Mathematician, treating about the excellencie of Geometrie, saith, [y] *It hath discover'd the Situations of places, the measures also of Voiages by Sea, as well as journies by Land.* Moreover, they had Instruments to measure the Sea, which the Grecians,

[y] *In Euclidis, lib. 1. lib. 2. cap. 3. in Græcis, pag. 18.*

Grecians, or at leaſt the modern Greeks, called θαλασσοδρομέτρας, *meaſures of Sea-voiages*; and have written that *Hero*, *Anthemius*, and other antient Mathematicians, learn't the Art from *Archimedes*, and tranſmitted it to Poſterity. Yea, it is ſaid by [z] *Joannes Tzetzes*, that thoſe men diſcover'd both water and winde-inſtruments out of the Books of *Archimedes*, *and Engines to move things of weight*, *and inſtruments called* Thalaſſodometræ, *for meaſuring of Sea-voiages*: ſo that as concerning the buſineſs of meaſuring the ſea, there is nothing to hinder, but that both matter and inſtruments may bee had for the diſtinguiſhing of its Dominions.

[z] *Chiliad.* 13. *cap.* 457.

Laſtly, that which is objected, touching the vaſt magnitude of the Sea, and its inexhauſtible abundance, is of very little weight here. Suppoſe it bee inexhauſtible, ſo that hee which ſhall appropriate it to himſelf, can receiv no dammage by other men's uſing it, what more prejudice is this to the right of Ownerſhip or Dominion, then it is to the Owner of a Fire or Candle, that another man's ſhould bee lighted by his? Is hee therefore leſs Maſter of his own Fire or Candle? But truly wee often ſee, that the Sea it ſelf, by reaſon of other men's Fiſhing, Navigation, and Commerce, becom's the worſ for him that own's it, and others that enjoie it in his right; So that leſs profit ariſeth, then might otherwiſe bee received thereby. Which more evidently appear's in the uſe of thoſe Seas, which produce Pearls, Coral, and other things of that kinde. Yea, the plentie of ſuch ſeas is leſsned every hour, no otherwiſe then that of Mines of Metal, Quarries of ſtone, or of Gardens, when their Treaſures and Fruits are taken away. And it is a cuſtom of the *Mahometans* (who

(who are very great and Potent Nations) to eſtimate their ſeas no leſs upon this accompt, then by the Revenue either of Fiſhing or Navigation; as wee may ſee in that their *falſ Prophet*, when ſpeaking of the moſt holy God hee ſaith, [a] *It is hee that hath prepared the Sea for your uſe, that thence yee may take freſh Food* (and uſe Fiſhing) *and alſo that out of it yee may draw ornaments to adorn you.* *Mahomet Ben Achmed*, the beſt Expoſitor of the *Alcoran*, interpret's thoſe ornaments by *Coral* and *Pearls*; which words alſo are uſed in another [b] place of the *Alcoran*, for the chief Commodity of the Sea. From whence alſo it is, that a ſpecial Licence to ſearch for *Coral*, hath ſomtimes been granted in Leagues made by the grand Seignieur, as is obſerved before. Yea, and [c] *Pliny* ſpeaking, eſpecially of the more Eaſternly Seas, ſaith; *It had been counted a ſmall matter, that men ſwallowed whole Seas into their throats, if both men and women alſo did not wear them up and down upon their hands, ears, heads, and all parts of the Body.* But it is well known to us, that precious Stones and Pearls, are very often found alſo in the Weſtern Seas, and hee tell's us, they were frequently found in antient time. Moreover (ſaith hee) *It is certain that in* Britain *they are produced, though ſmall and ill colored* (as wee all ſee at this day) *foraſmuch as* Julius Cæſar *would have it underſtood, that the breaſt-plate which hee conſecrated to* Venus *in her Temple, was made of Britiſh Pearl.* Yea, it is written by many, and teſtified by [d] *Suetonius*, that *Cæſar* went to *Britain* in hope of Pearls. It is obvious therefore to every man, that the gain of ſuch a Voiage into *Britain*, may bee leſsned, and that the abundance either of Pearls themſelvs, or of thoſe ſhell-fiſhes, which produce them, may through a promiſ-

[a] *In Alcorano, Azoarâ, 16. in Cod. Arab. 26 in Latino.*

[b] *Azoar. 55. Sed in Cod. Latin. 65.*

[c] *Hiſt. Nat. lib. 9. cap. 35.*

[d] *In Julio, ca. 47. & videſis G Camden. in Britanniâ, pag. 630. & 721.*

promiſcuous and common uſe of the Sea, bee diminiſhed in any Sea whatſoëver. Where then is that inexhauſtible abundance of Commodities in the ſea, which cannot bee impaired? There is truly the ſame reaſon alſo, touching every kinde of Fiſhing. But what need many words about this Matter? Do wee not at this day finde it preſſed home to the utmoſt every where by Lawyers, eſpecially thoſe of the Empire? and was it not a thouſand times ſaid of old when the *Romane* Empire was in its prime, [c] *that Cæſar is Lord of the whole world?* Thus *Ovid*, according to the *Romane* cuſtom, ſaith;

[c] *L. 9. ff. tit. ad Legem Rhodiam. &c.*

[f] *Gentibus eſt aliis tellus data limite certo:*
Romanæ ſpatium eſt urbis & orbis idem.

[f] *Faſtorum, lib. 2.*

All other States have Limits to their Ground:
Rome and the World, have but one common Bound.

The Sea (I ſuppoſe) is not more inexhauſtible then the whole world. That is very much inferior to this, as a part is to the whole, in greatneſs and plenty. And therefore a Dominion of the Sea is not to bee oppoſed upon this accompt, unleſs alſo wee in like manner affirm, that not onely that ſaying of the Emperor's Dominion over the world is manifeſtly falſe, (as it muſt bee) but alſo contrary to natural reaſon it ſelf, becauſe of the worlds extraordinary greatneſs and abundance. Therefore they are more juſtifiable in their Opinion, who, as they ſay, that the *Roman* Emperor, according to the antient Law, is Lord of the World or Land, (that is to ſay, a large part of it) ſo alſo [g] they would have him to bee Lord of the Sea. Nor

[g] *Jo. Griphiander Juriſdictione Inſulæ, cap. 14. § 65. &c.*

Nor is there any difficulty in that expreſsion of the Emperor *Antoninus*, wherein hee call's himſelf Lord of the World, but the Law (as 'tis commonly underſtood) Lady of the Sea; which (if it were granted that his Anſwer ought [h] ſo to bee underſtood) doth ſignifie no other thing, then that the *Rhodian* Laws, where they did not thwart the *Romane*, were ſo far in force about Sea-affairs, that (however hee were Moderator and Lord of both) hee would by no means determin ought contrary to thoſe Laws, by any Reſcript of his own. [i] *Alcialus*, and other very Learned men alſo, make almoſt the ſame interpretation: But concerning that Anſwer of *Antoninus*, I ſhall add more [k] by and by. So that it ſeem's the Antients, in that ſo often repeated ſpeech, concerning univerſal Dominion, conceived the *Romane* Empire to bee no leſs or narrower, then it is repreſented by *Petronius Arbiter*, who ſet's forth the matter in theſe words;

[h] *L. Deprecatio 9. ff. ad legem Rhodiam.*

[i] *Diſpunctionum lib. 2. ca. 5.*

[k] In the 25 Chapter.

Orbem jam totum victor Romanus habebat,
Quà Mare, quà Terræ, quà Sidus currit utrumque.

The Romane Conq'rer then the World,
Both Sea and Land did ſway,
Whereſoe're the Moon travel's by night,
Or the bright Sun by day.

[l] *Emeritæ; apud Gruterum, pag. 149 4.*

[m] This temple ſtood open in time of war, but was ſhut in time of peace.

[n] *Suetonius in Octavio, cap. 22.*

And [l] the Ancient Inſcription in honor of *Auguſtus Cæſar* was, ORBE MARI ET TERRA PACATO, IANO CLUSO, &c. *Peace beeing reſtored to the world by Sea and Land, hee ſhut up the* [m] *Temple of Janus*; according to which ſenſ it is recorded alſo by [n] Hiſtorians, *that hee ſhut* Janus *his Temple three times, having ſettled Peace by Sea and Land*; whereby they would have

have us to underſtand (the verie ſame thing which wee have proved more fully before) that the Seas were comprehended as well as the Land, within the huge Bodie of the *Romane* Empire.

An Anſwer to ſuch Teſtimonies as have faln from Writers treating of other ſubjects, *and which are uſually alleged againſt Dominion of the Sea.*

CHAP. XXIII.

IT remain's in the next place, that wee conſider of what validitie the contrarie Opinions of Writers are whereof wee formerly made mention. As to what concern's thoſe Paſſages of the Poëts, *Plautus* and *Phœnicides*; it is clear in *Plautus*, that the lewd ſlave *Trachalio* was but in jeſt with *Gripus* the Fiſherman: Hee ſaith in general, that the Sea is common to all; which ſignifieth a Sea that never was poſſeſſed, as well as that which is neceſſarily and naturally common; and in that place, that, rather then this. Wherefore it may bee underſtood, that Fiſhing was common or not yet appropriated; that, is, that the people either of *Rome* or *Greece*, had ſuch a Dominion over any kinde of Sea (for, by what hath been alreadie mentioned, it appear's both of them had a Dominion over ſom Sea before *Plautus* his time) that either of them might uſe their reſpective Seas at their own pleaſure, in hindring others from ſailing through them, and removing ſuch impediments of Trade and Commerce as ſhould happen therein: And yet that hitherto they had

prohibited no man from fiſhing in that Sea (mentioned by *Plautus* and *Phœnicides*) in ſuch a manner, but that the uſe of it might remain common either to Natives or Neighbors, as the uſe of a ground for feeding of Cattel; though there may indeed bee a particular Owner in poſſeſsion, reſerving the other Commodities of it to himſelf, as it often come's to paſs. But afterwards alſo, eſpecially in the *Eaſtern* Empire, or among the *Greeks*, it is clear out of what wee have alreadie ſhewn you, that a peculiar Right of Sea-fiſhing hath paſſed into the hands of private perſons, as well as of Princes: So that ſuch Expreſsions as theſe beeing applied againſt private Dominion of the Sea, ſoon vaniſh and com to nothing.

As to that paſſage out of *Ovid*, *Quid prohibetis aquas?* **Why do yee forbid water? &c.** (then which nothing is more uſual in Diſputes about this matter) it is not ſo much an Aſſertion of the communitie of waters, as a vehement and hyperbolical reproof of the inhumanitie of that ruſtick Rout in *Lycia*. *Latona* beeing thirſtie and wearie, asked for a draught of water; and that out of a Lake. The barbarous people denie her; and therefore ſhee moſt deſervedly reprove's them. But ſhee doth it not more earneſtly, then *Ampeliſca* in [a] *Plautus* did merrily, to *Sceparnio* a ſlave that denied her water;

[a] *In Rudente, Act.* 2.

Cur tu (inquit Ampeliſca) *aquam gravare amabò, quam hoſtis hoſti commodat?*

Why (ſaith Ampeliſca) **art thou ſo loth to let mee have water, which one ſtranger affords another.**

For, whatſoever may bee afforded or communicated without

without prejudice of the Owner, hee is concerned many times in humanitie to impart it to a meer ſtranger that asketh him. For, the word *Hoſtis* in that place ſignifie's a Stranger, as wee often finde among the [b] Antients; And it appear's alſo by the queſtion of *Sceparnio*, whereby hee jeer's the wench,

[b] *Feſtus in verb.* Hoſtis, *& Cic. de Offic. lib.* 1.

Cur tu (aït ille) *operam gravare mihi, quam civis civi commodat?*

Why (ſaith hee) **doſt thou denie mee that help, one Citizen afford's another?**

Here hee oppoſeth *Citizen* to *Stranger*. From the ſame Office of humanitie thoſe particulars are derived; as *not to denie running Water; to ſuffer one Fire, or one Candle to light another*; and other things of that nature, which are profitable to the Receiver, and not troubleſom to him that give's or permit's the Favor. And upon this Rule of Moralitie onely, which is the Rule of Charitie, are thoſe demands both of *Latona* and *Ampeliſca* grounded. They denie not the private Dominion of waters: Neither *Latona* of the Lake (whoſe private Dominion is confeſs't by all) nor *Ampeliſca* of the Well, from whence ſhee demanded water for the Prieſt of *Venus*. Moreover, thoſe words of *Latona* are ſpoken concerning a Lake of little water; as *Ovid* ſheweth in that place,

Fortè lacum mediocris aquæ proſpexit in imis
Vallibus.——

By chance a little Lake ſhee did eſpie,
Which in the Vallies far beneath did lie.

And after ſhee had ſaid that ſhee came to claim a publick gift, ſhee add's,

Quæ tamen ut detis, ſupplex peto.———

Which notwithſtanding I humbly beg you would beſtow.

Nothing in that place oppoſeth a Dominion of the waters, more then of any other things whatſoêver, whereto that ſaying of *Ennius* may have relation,

[c] *Nihilo minùs ipſi lucet, quum illi accenderit,*

His own light is not the leſs, When hee hath lent light to another.

c *Cic. de Offic. lib.* 1.

And as *Cicero* tell's us, all things of the ſame kinde ſeem common to men. Which communitie notwithſtanding derogate's nothing at all from the Dominion here in Queſtion; unleſs any will bee ſo unadviſed as to affirm, that the Laws of friendſhip (wherein Philoſophers ſay all things are common) with thoſe of Charitie and Liberalitie, may overthrow private Dominion.

Nor is there any more weight in that which is objected out of *Virgil*. What is this to the purpoſe? *Virgil*, or *Ilioneus* ſpeaking of the *Tyrrhen* Sea, ſaid, *That the water is open to all.* *Ergò*, by Law the water muſt lie open at all times to all men. A verie trifling Argument! There was no Land that was omitted in the firſt diſtribution of things, which did not remain open to all, before it came under particular poſſeſsion. But in that paſſage of *Virgil*, there is no demand made of Right, but onely an Office of humanitie requeſted from the King of *Latium*. Yea, and a promiſs made of recompence, ſaying;

Non

Non erimus regno indecores, nec vestra feretur
Fama levis, tantique abolescet gratia facti.

Æneid. li. 7.

Wee'll not disgrace your Realm, nor lightly let
Your Fame, and so great courtesie forget.

Therefore in the Poëts sense, the benefit was to bee received and acknowledged from the grace and favor of the Prince, not claimed by any Law of nature common to all. Yea, wee know that in many places an excise or paiment is made somtimes for the very use of water. As among the *Hollanders* they have in *Delph-land* a Custom called *Jus Grutæ*; which hath ever been under the care of those Officers called in Latine [d] *Comites Plumarii*, in Dutch, **Pluymgraven**, and whereby the Beer-brewers (as [e] *Hadrianus Junius* tell's us) are bound to pay them the hundreth part for the use of water. Other instances there are to bee found of the same nature.

[d] *Comites Plumarii* or Officers of the Feather; their place is to see that Birds or foul bee not transported thence.

Lastly, as to that saying of the *Jewish Rabbins* concerning *Alexander*, it shew's onely they were of Opinion that *Alexander* had not gotten a Dominion over the Sea. They do not say at all, that hee could not lawfully get it; nor truly could they say it without gross indiscretion, unless they would renounce their own Right (which wee have alreadie mentioned out of their determinations) in the great or *Phœnician* Sea. And whatsoëver those Rabbins may lightly say of *Alexander*; yet truly *Flavius* [f] *Josephus* a Jew, and (if wee may believ himself) the most eminent Lawyer of his time among the Jews, call's the Emperor *Vespasian*, *Lord both of Sea and Land.* And [g] *Julian* saith, that *Alexander* aspired after an Empire by Sea as well as by Land: which hath been mentioned also by [h] *Seneca.*

[e] *In Histor. Bat. c. 19.*

[f] *De Bello Judaïco, lib. 3. cap. 27.*

[g] *Orat. 3.*

[h] *Suasor.*

But all theſe Objections are brought out of Writers treating of other matters, which ought alſo to bee conſider'd. And therefore in the laſt place, let us take ſuch opinions of the Lawyers into conſideration, as are oppoſed againſt it.

An Anſwer to the Objections taken out of Antient Lawyers.

Chap. XXIV.

OF thoſe Lawyers that are of the contrarie opinion, ſom are antient, ſom modern. If wee look into the moſt notable Teſtimonies of the Antients, this onely is to bee collected from them touching the Communitie of the Sea, that ſom of the moſt eminent were indeed of Opinion, that by the Law natural and of Nations the Sea is perpetually and neceſſarily common to all men; which nevertheleſs, moſt clearly appear's to bee far otherwiſe, if a diligent ſurvey bee made of the Laws and Cuſtoms, either Civil or Intervenient, of moſt Ages and Nations; As wee have verie abundantly proved in what hath been alreadie ſhewn you. And that not onely out of the moſt approved Hiſtorians (whereof there is verie oftentimes moſt uſe, in ſearching out the moſt common Cuſtoms of Nations, and other things relating to the Laws themſelvs[a]) but alſo out of the verie Leagues or *Intervenient Law* of divers Nations, yea, and other Lawyers of no leſs note, together with the principal Edicts in the Eaſtern Empire, beſides, manie other, from whence any one may eaſily learn what, according to the *Natural Permiſsive Law*, ought to bee determined in this matter.

[a] *Vide Gaſpar. Knockium, lib. de contributionibus, cap. 20. §. 463. & ſeqq.*

Som

Som of the Antients have been of Opinion, that according to the Law Natural or of Nations, it is lawful to hunt and hauk in another man's [b] wood or Ground, and to Fish in another man's Pond or Lake, much more in a River, except it were prohibited by the Owner in possession. *These things,* saith [c] *Cujacius, were so determined by the prudent* Romans, *who adhered most to the Law of Nations. But Custom hath now over-ruled the Law of Nations, so that it is not lawful to Fish so much as in a publick River, nor to hunt or hauk freely in the Fields.* And saith the same [d] Autor in another place; *The Exchequer is to bee justified onely by Custom, in laying claim to the Fisheries, in a private manner, contrarie to the Law of Nations.* Whereas notwithstanding, in the *Feudal* Laws, the Revenues of Fisheries are counted among the *Regalia* or Royalties of the Prince; and reckoned by learned men among the Antients belonging to the [e] *Romane* Exchequer or Treasurie, who cite *Ulpian* himself for a witness. For, hee among the publick Customs or Revenues numbreth the Revenues [f] *Piscariarum* (as som would have it read) of *Fisheries*. Others instead of it put *Picariarum* **pitch-pits**, for those places from whence Pitch is digged. Surely, even [g] *Ulpian* himself reckon's Fish-ponds among those things that are liable to assessments. But howsoëver the later Customs of Nations have subverted or over-ruled that more antient Law of Fishing, Hunting, and fouling freely, whether it were the Law natural (as they term'd it) or of nations; as sufficiently appear's by the [h] Law of those places which they call

[b] *L. 3. ff. de acquir. rer. dom. & instit. de rer. divis. § Feræ igitur bestiæ & l. Injuriar. 13. ff. de injuriis §. ult.*

[c] *Observat. lib. 4. cap. 2.*

[d] *Ad lib. 5. Feud. tit. de Regalibus.*

[e] *Guid. Pancirol. variar. lect. utriusque Juris, lib. 3. cap. 31.*

[f] *L. 17. ff. de V. S.*

[g] *L. 4. §. 6. ff. tit. de Censibus.*

[h] *Vide Sebastianum Medicem tract. de venatione &c. Edict. & consuetud. de Aquis & Foresiis collect. per Sanctyonium, Andream Gaill. pract. Observat. lib. 2. 67. Matth. Stephani de Jurisdictione, lib. 2. part 1. cap. 7. §. 43 2. & ejusmodi alios de Venationis Jure in imperio* Romano-Germanico, *&c.* Galliarum

Forests

Foreſts **De Wildt bahne** or *Bannum ferinum*, and of Rivers, as it is variouſly eſtabliſhed in ſeveral Countries. And ſo without any prohibition of the Owner in Poſſeſsion, that antient Freedom hath been abrogated many Ages ſince by moſt received Cuſtom: which may bee ſaid in like manner of the Sea, whatſoêver thoſe Antients and their Followers have written to the contrarie.

Moreover, the Emperor *Leo* hath (as wee have ſhewn you) expreſsly declared by Edict, that the antient Right concerning a neceſſarie communitie of the Sea, was not without injuſtice pretended in the *Eaſtern Empire*. Wherefore *Michaël Attaliates* truly did ill, and ſo hath any other Lawyer of the Eaſt (if any there bee) ſince the daies of *Leo*, that hath oppoſed its private Dominion. Nor indeed hath that eminent man dealt any better, who write's that *Leo* made a change againſt reaſon of Law. And here, eſpecial care muſt bee taken to avoid that which ſom have preſumed to affirm, touching thoſe moſt excellent Books of *Juſtinian*, which make up an entire Bodie of the antient Law; [1] *That the Law preſcribed in thoſe Books is not the Law onely of a Citie, but even of Nations and nature; and that the whole is ſo fitted unto nature,* that after the Empire was extinct, *though the Law was a long time buried; yet it roſe again, and ſpread it ſelf through all the world. And therefore that it concern's even Princes, although it was framed by* Juſtinian *for private perſons.* As if the law natural and of Nations were to bee derived onely out of thoſe Books. For, not to mention, how that not onely very many Decrees, and Cuſtome's introduced in the *Romane-Germane* Empire it ſelf and other places abroad, have extremly alter'd many things conteined

[1] *Albericus Gentilis de Jure Belli, l. 1. cap. 3.*

in

in thoſe Books; but alſo that wee finde divers Kings both of [k] *Spain* and [l] *France* have ſomtimes heretofore prohibited the uſe of them in any kinde within their Courts of Juſtice; there are truly ſom things in the very Law of the Nations of *Europe* (who receiv thoſe Books, and that upon very good ground; both into their Schools and Courts, ſo far as the particular Laws of their Kingdoms will permit) I mean in their Law Common, or Intervenient, which are not grounded at all upon the Law of *Juſtinian*, but have had their original from Cuſtoms quite contrarie thereto. Priſoners of war are not now made ſlaves, nor are the Laws concerning captivitie or *Remitter upon return from Captivitie*, touching the [m] perſons of men, in any uſe at all, which notwithſtanding take up a Title in the *Digeſts*. Ships driven by wrack upon a Shore do by the [n] Law of *Juſtinian* (which is confirmed alſo in the [o] *Roman-German* Empire) belong either to the former Owners, or as things relinquiſhed and unpoſſeſſed, to the firſt Finders; nor doth the Exchequer interpoſe any Claim, whereas nevertheleſs, according to the Law of divers Nations, intervenient to themſelvs and their Neighbors, it bee moſt certain, that thoſe Ships are very often confiſcated according to the varietie of Cuſtom: As among the *Engliſh*, the [p] *Britains*, [q] *Sicilians*, ſom [r] Borderers upon the Shores of *Italie*, and others. And although it bee accounted crueltie by ſom to perſue profit upon ſo ſad an occaſion, as it was alſo by the [s] Emperor,

[k] *Gregor. Lopez in Alphonſin. 3. tit. 4. l. 6. Azevedo ad reg. conſtit. in rubric. tit.* De las leyes.

[l] *Choppinus de Domanio, lib. 2. tit. 15. §. 5. & Bodin de Repub. lib. 1. cap. 8. & vide Guil. Burlæum in Proœm. ad Comm. in Ariſt. Phyſica.*

[m] *Boërius Deciſ. 178. Alvarus Velaſc. Conſult. tom. 1. 30 Fra. Suarez de Legibus, l. 2. cap. 20.*

[n] *C. tit. de Naufragiis, & l. 1. & 3. ff. de Incendio & l. 21. §. 1. ff. tit. de acquir. vel amit. poſſeſſione.*

[o] *Frederic. 2. in C. de Furtis, &c. Navigia, & Conſtit. Caroli 5. de Judiciis Capitalibus, cap. 118.*

[p] *Bertrand. Argentræus in Conſuet. Brit. Art. 56. §. 45.* [q] *Choppinus de Domanio, lib. 1. tit. 15. §. 10.* [r] *Luc. de Pennâ ad C. tit. de Naufrag. Matth. de Afflict. in Conſ. Neapolit. lib. 1. conſuet. 59. vide Garſiam Maſtrillum de Magiſtratibus, lib. 3. cap. 10. §. 393.* [s] *Andr. Gail. practic. Obſervat. lib. 1. cap. 18. Bodin. de Repub. l. 1. cap. 10. Stat. Romæ Urbis. l. 2. cap. 85.*

either *Constantine* or *Antoninus*, who made a Law thereupon; yea, and though besides the Decree of the Lateran Councel, the Bull [t] *Cœnæ Domini* do blast those every year with Excommunication that plunder the goods of such as suffer Shipwrack, in [u] any Sea, upon any pretence of Law or Custom whatsoëver; yet the Custom of confiscation in this case derived not its Original from the rude and barbarous Ages, but it flowed first from the most antient Maritim Laws of the *Rhodians* (which were in use among the *Grecians* in their flourishing condition) as shall bee shewn by and by, and from thence was received by divers Princes. Also, *when the Emperor's Ambassador*, as *Bodin* saith, *made complaint before* Henrie *the second King of* France, *that two Ships beeing driven a Shore were seized by one* Jordanes Ursinus, *and demanded a restitution of them*; Annas of *Monmorancie Master of the Horse made Answer, that all things which had been cast upon Shore, did by the Law of all Nations belong to such Princes as have commanded the* Shores. *So far hath Custom taken place in this particular*, that Andræas Doria *did not so much as complain about those Ships that were cast upon the French Shore, and made prize by the Admiral of France.* So far hee. In like manner, Whales and other Fish of extraordinarie bigness, do not, according to the known Law of *England*, [x] *Portugal*, and other Nations, belong to him that first seizeth them, but either to the Exchequer, or (which is all one) to such as the Prince shall grant a Royaltie of that nature.

[t] *Sub. Alex. 3. c. Excommunicationi extr. tit. de Raptoribus.*

[u] *Bartholomæus Ugolinus de Censuris Pontifici reservatis, part. 2. cap. 4.*

[x] *Georg. de Cabedo Decis. Lusitan. part. 2. 48.*

Other instances might bee brought, sufficiently to shew that the Law natural and of Nations is not wholly to bee drawn out of such Decrees or Determinations as are found in the Books of *Justinian*;

And

And ſo that what is there inſerted touching a Communitie of the Sea, doth not in any wiſe diminiſh the Autoritie of the received Cuſtoms of ſo many Ages and Nations. But it is to bee obſerved, that the Sea is ſaid in thoſe Books to bee common, as the Aër, and as wilde Beaſts are common. As if indeed the neighboring Aër it ſelf could not paſs into private Dominion, as well as a River that is poſſeſs't, and wilde Beaſts that are taken. Moreover, thoſe Antients do ordinarily conjoin a communitie of Shores and Ports, not unlike to that which they teach of the Sea: As if the very reaſon of the Dominion of Ports and Shores, as they belonged either to the people of *Rome*, or (which is all one here) to the Prince himſelf, were not manifeſtly drawn, as wee have expreſsly ſhewn alreadie out of [y] *Celſus*, from the Impoſts and Cuſtoms which are frequent enough both in the Shores and [z] Ports of the *Roman* Empire, and in the Books of [a] *Juſtinian* (as in many other places.) For, as the [b] paiment of that Tribute which is called *Solarium à Solo*, and thence by the Greek Lawyers [c] Σωλάριον, for an houſ that is built upon the ground of the Common-weal or the publick ground, was a ſufficient Argument that the Common-weal or the Prince was Lord of the Soil; ſo indeed alſo the Cuſtom paid for the uſe of Ports, manifeſted that there was the ſame kinde of Dominion over Them. Alſo, Ports themſelvs are rightly ſuppoſed to bee a part even of the Continent, as appear's in [d] another place. Moreover alſo, *Juſtinian* appropriated the *Helleſpont* to himſelf in ſuch a manner, that hee would not permit Merchants and Sea-men to enjoy a freedom of that Sea and the Ports, but at an extraordinarie rate, if wee

[y] *Cap.* 14.
[z] *Cic. Orat. pro lege Manilia. Symmachus, l.* 5. *Ep.* 62. 65. *Tacitus Annal. lib.* 13. Alii *obiter.*
[a] *Tit. de Publicanis, in ff. & tit. de vectigalibus in C.*
[b] *L.* 1. *C. tit. de diverſis Prædiis, & l.* 5. *ff. tit. de Operibus publicis, §.* 1.
[c] *Eclog. Baſilic. lib.* 58. *p.* 488. *ut etiam ſimili notione in l.* 15. *ff. tit. Qui potior in Pignore.*
[d] *L.* 15. *Cæſar, ff. tit. de Publicanis.*

may believ [e] *Procopius*, who was his comtemporarie and wrote his Affairs.

[e] *In Arcanâ Historiâ, pag.* 110.

Nor did they imagine there was any difference betwixt the Dominion of the Sea, and that over the Land or People, who about 400 years since put this Inscription upon the Monument of the Emperor [f] *Frederick* the second,

[f] *Georg. Gualtherus in Tabulis antiq. Siciliæ, &c. pag.* 93.

Qui Mare, qui Terras, Populos, & Regna subegit,

Who subdued the Sea, the Land, Nations, and Kingdoms;

To wit, in the Cathedral Church of *Palermo*, in which place notwithstanding, the Imperial Law flourished at that time, as well as in the rest of the *Roman-German* Empire. The sum of all is, that those antient Lawyers do deliver many things carelessly touching this matter, not onely such as thwart the most received Customs of Nations through almost all Ages, but such also as do sufficiently contradict one another; especially, whilst they join the Shore it self, and consequently the Ports together, as it were in an equal state of Communitie. So that they are equally refuted as well by their own indiscretion, as by the Autoritie of others.

Touching

Touching the Emperor Antoninus *his Anſwer*; that himſelf was Soveraign of the world, but the Law (*as 'tis commonly tranſlated*) of the Sea; *in L. Deprecatio, ff. tit. de Lege Rhodiâ.* The true meaning of *the ſaid Anſwer, and* a new, *but* genuine Expoſition *of it. Alſo, that it comprehend's nothing which may in any wiſe oppoſe a* Dominion of the Sea.

CHAP. XXV.

BUt ſeeing that among thoſe particulars, which are uſually drawn out of Antient Lawyers, againſt *Dominion of the Sea*, that Anſwer of the Emperor *Antoninus* to *Eudæmon* ſeveral times beforementioned, is of ſo principal an account; therefore it ſeem'd meet to treat of it apart by it ſelf, and ſearch into the genuine ſenſ thereof; concerning which, whoſoêver ſhall look into the whole matter with a little more care then ordinarie, will I ſuppoſe bee very well ſatisfied, not onely that moſt Interpreters have hitherto been wholly ignorant thereof, but alſo that it in no wiſe contradict's a Dominion of the Sea.

Eudæmon having been Shipwrack't at Sea, had petitioned the Emperor, for a reſtitution of thoſe wrack't goods that had been ſeized by the Receivers of his Cuſtoms. The words, according to [a] *Voluſius Mætianus* who was one of the Emperor's Privie Coun-

[a] *L. 9. ἀξίωσις ff. de Lege. Rhodiâ.*

Councellors, are these; Κύριε Βασιλεῦ Ἀντωνῖνε· ναυφραγίον ποιήσαντες ἐν τῇ Ἰταλίᾳ, διηρπάγημεν ὑπὸ τῶν δημοσίων τῶν τὰς Κυκλάδας νήσους οἰκούντων; *O Emperor* Antoninus, *our Lord*; *wee having made Shipwrack, have been spoiled of all by those Receivers of the Customs that inhabit the* * *Cyclades Islands.* Hee received an Answer from the *Emperor*, pointed for the most part after this manner, in the printed Books. Ἐγὼ μὲν τῷ νόμῳ Κύριος, ὁ δὲ νόμος τῆς θαλάσσης. τῷ νόμῳ τῶν Ῥοδίων χρινέσθω τῷ ναυτικῷ, ἐν οἷς μὴ τὶς τῶν ἡμετέρων αὐτῷ νόμος ἐναντιοῦται· τοῦτο δὲ αὐτὸ ἔδοξε καὶ ὁ θειότατος Αὔγουστος ἔκρινεν. Which is usually thus translated; *I indeed am Soveraign of the World, but the Law, of the Sea. Let it bee determined by the* Rhodian *Law which is prescribed for the regulation of Sea-affairs, so far as it is not opposed by any of our Laws. For, the Emperor* Augustus *also was of this Opinion.* There never was any Controversie about the reading or Translation of this Answer, unless it were in those words, ὁ δὲ νόμος τῆς θαλάσσης, whereto answereth, *but the Law of the Sea* with a period or full point after it; as for the most part it is taken, and as wee have according to the received translation related it [b] alreadie in the Objections. Of those that would have it so rendred, there have been not a few who were of Opinion, that from the *Adversative* δὲ *autem* is implied, that the Emperor answer'd that himself indeed was Lord of the rest of the world, but not of the Sea; and that the Law onely, not any man was Lord of this. *Andræas* [c] *Alciatus* saith; *Whereas it is said, I indeed am Lord of the World, but the Law of the Sea; som* French *Doctors were of Opinion becaus of that* Adversative, *that a Soveraigntie of the Sea did not appertain unto the Emperors.*

* These Isles are part of those that lie in the *Archipelago.*

[b] *Cap.* 2.

[c] *Dispunctionum, lib.* 2. *cap.* 5.

perors. But hee add's; *which truly is very ridiculous*: *Although* [d] Baldus *and* [e] Jason *conceived for this reason, that the* Venetians *were not subject to the* Roman *Empire. But the sens of this Law is this* (to wit, that Sea-affairs were to bee determined by the *Rhodian* Law, as hee declare's a little before.) *For, seeing the Emperor is Lord of the world, surely, not the Land onely but the Sea also, ought to submit to his Laws, and hee to appoint Laws therein: though notwithstanding hee do not determine matters by his own Law in the Sea, but by the* Rhodian *Law, which was by him approved. Understand therefore, when it is said,* I am Lord of the world, *becaus I govern the world according to my own Law.* But the Law, *suppose the* Rhodian *Law*; of the Sea; *becaus by it, Justice is administred upon the Sea. Add hereunto, that this Particle* δὲ, *that is,* Autem, *is not so opposed, that it alwaies excludes what goeth before.* And therefore *Alciatus* also rendreth it thus, *But the Law of the Sea, by which Law of the* Rhodians *concerning Navigation, let it bee determined, &c.* And therefore truly, it is upon exceeding good ground that hee call's their opinion very ridiculous, who would have it hence concluded, that a Dominion of the Sea did not belong unto the Emperors. For, suppose the Emperor did answer so, as it is commonly rendred. Doth hee therefore deny himself a Dominion of the Sea, becaus hee affirm's the Law to have Dominion at Sea? was hee not in the mean time Soveraign Lord and Arbitrator of the world (as hee implied indeed by his Answer) and so also of the Law? whatsoever hee pleased, was [f] Law. Therefore to say, that any thing which the Law had Dominion over, was not also under the Emperor's Dominion (to whom the Law it self was subject) is so absurd, as nothing can bee more.

[d] *In tub. de Rer. Divis.*
[e] *L. ex hoc Jure. ff. tit. de Justitiâ.*
[f] *L. 7. ff. tit. de Constitut. Principum.*

Others

Others there are that render the ſenſ of the words after this manner. *Although I my ſelf bee Lord and Emperor of the world, and ſo, free from all Laws, nor bound by any Rule to give any account to my Subjects, yet notwithſtanding the Law ſhall bee Empreſs and Queen at Sea, that is, it ſhall bear ſway by Sea, in ſuch Caſes as have faln out at Sea, ſince it concern's Sea-affairs, nor ſhall my Exchequer bee advanced by the loſs of my Subjects, but Juſtice ought to bee equally adminiſtred between the Exchequer and private perſons, and therefore the Exchequer ſhall bee liable to give an account.* So ſaith, *Franciſcus de* [g] *Amaya*, Advocate in the King's Court of Exchequer within the Kingdom of *Granada*. So you ſee, here is not the leaſt Track admitted of a denial of Sea-Dominion.

[g] *Obſervat. Juris, lib. 1. cap. 1. §. 76.*

Som alſo there are, who would have the meaning bee, that *Antoninus* ſhould expreſsly ſay that hee himſelf was as well the Law of the Sea, as Lord of the world. *I indeed am Lord of the world, and I am alſo the Law of the Sea.* So *Joannes Igneus*: And ſom [h] others there are that incline this way: with whoſe opinion if wee ſhall concur, wee muſt needs confeſs alſo, that the Emperor did ſufficiently attribute the very Dominion of the Sea unto himſelf. But [i] *Samuel Petit*, a very learned *French-man* ſaith, Antoninus *doth not deny himſelf to bee Lord of the Sea, that hee cannot give Law and do Juſtice to thoſe which deal upon the Sea; for, you ſee his meaning was, that Right ſhould bee don betwixt* Eudæmon *and the Cuſtomers which dwelt in the* Cyclades *Iſlands, according to the* Rhodian *Law; nor doth hee ſay alſo that hee is ſo tied by this* Rhodian *Law, that hee can by no means relieV* Eudæmon *againſt this Law, if any injurie bee don him, but his meaning is, that* Eudæmon *ſhould have Right don him accord-*

[h] *Forcatulus in Cupidine, Juriſp. cap. 9. Mendoza apud Amayam, in loco citato.*

[i] *Miſcellan, lib. 3 cap. 11.*

ing

ing to this Law, but yet so that this do not thwart any of the Roman *Laws.* Thus hee interpret's it, though the vulgar reading bee reteined; which hee would rather have to bee rejected, and the name of Law to bee put out there; Beeing of opinion that the words ὁ δὲ νόμος τῆς θαλάσσης *but the Law of the Sea*, are corrupted from ὁ δὲ ἄνεμος τῆς θαλάσσης, *but the Winde of the Sea.* As if the Emperor had said, that hee himself indeed was Lord of the Sea, but that the Sea nevertheless is so subject to the power and alterations of winde and weather, that it was not in his power, though Lord thereof, to prevent Shipwracks. Moreover also, *Petit* correct's the Cosmographie of the Petition. Hee is of opinion, that those words, ἐν τῇ Ἰταλίᾳ *in Italie*, crept in through the negligence of Transcribers in stead of ἐν τῇ τηλίᾳ (θαλάσσῃ being understood) *in the Telian* or Ægean *Sea*, which is about the Island *Telos. What a monstrous thing were* (saith hee) *that those who were shipwrack't in the Sea upon the Coast of* Italie, *should have been pillaged by Publicans or Customers dwelling in the* Cyclades *Islands? What Cosmographie is this? What relation have the Publicans or Customers of those Isles unto Italie?* which is most judiciously spoken: For, it appear's a manifest error there concerning *Italie.* And it is most certain, that the Island *Telos*, whether it bee one of the * *Cyclades* or *Sporades*, is so placed in the Ægean or *Levant* Sea (as wee finde in [k] *Strabo*, [l] *Plinie*, and *Stephanus de urbibus*) that the matter hang's well together, if wee say that the Customers of the *Cyclades* seized upon wrack't Goods in the *Telian* Sea, which to say of the *Italian* Sea or Shore is too monstrous in reason. Perhaps also, in that Catalogue of Seas summ'd up by *Æthicus*, an ancient Cosmo-

* The *Cyclades* and *Sporades* make up the Iles in the *Archipelago.*

[k] *Lib.* 10.

[l] *Lib.* 4. *cap.* 12.

grapher, the *Ionian* and *Ægean Sea*, the Sea called *Mare Lautades* (which learned men ſuppoſe to bee corruptly read for *Leucadium*) and *Mare Tillæ*, the *Telian* Sea it ſelf, beeing taken out of this very Petition, before it was corrupted, was ſignified by the name of *Tilla*. And thus you have in a manner the opinion of learned men, ſo far as concern's the matter in hand, touching that Anſwer, and the Petition of *Eudemon*.

For my part, I moſt willingly yield my aſſent to the emendation of the Colmographie: But do conceiv, that the antient and received reading of the Anſwer ought not to bee alter'd, ſave onely in the pointing. Oftentimes no regard hath been had, nor any uſe of points in antient Books: So that ſucceeding Generations have been puzzled now and then with a confuſion of Syntax. But by a very ſmall alteration of them in this place (for they are the verv ſame with thoſe in the [m] Books that are publiſhed) the ſenſ appear's to mee not onely ſuited to the matter of the Petition, and clear; but alſo plainly freed, both from that Phanſie, as if Dominion of the Sea were denied the Emperor in that place; and alſo from that fiction there expreſly delivered touching the Sea-Dominion of the Law. Nor can I bee perſwaded, that Interpreters hitherto have ſufficiently hit upon the *Emperor's* meaning. For, what is this to the purpoſe? *I indeed am Lord of the world, but the Law of the Sea.* If it were ſpoken of the Law in general, certainly the Law had Dominion as well upon the main Land, The Emperor himſelf was Lord of every kinde of Law, even by Land as well as by Sea: And ſo truly, the Anſwer had hitherto, concerned the Petition nothing at all. If you would under-

[m] *Vide Alciat. Diſp. lib. 2. cap. 5.*

underſtand it of the *Rhodian* Law, in ſuch a ſenſ (as *Alciatus* did) that the Emperor's meaning was that the Law had Dominion over the Sea, what then is the Conſequence? that the matter was to bee determined by the *Rhodian* Law, ſo far as it was not oppoſed by any of the *Roman* Laws. What, was the *Rhodian* Law ſimply ſupreme over the Sea, and yet notwithſtanding that high Title ſubject to reſtraint by the *Roman* Laws? Theſe things do not cotten well. Let it bee pointed therefore, either after this manner; Ἐγὼ μὲν τοῦ Κόσμου Κύριος. Ὁ δὲ νόμος τῆς θαλάσσης. Τῷ νόμῳ τῶν Ῥοδίων κρινέσθω τῷ ναυτικῷ, ἐν οἷς μή τις τῶν ἡμετέρων αὐτῷ νόμος ἐναντιοῦται, *I indeed am Lord of the World. But of this kinde,* or *this is the Law* or *the Cuſtom of the Sea. Let it bee determined by the* Rhodian *Law concerning Navigation, ſo far as none of our Laws do oppoſe the ſame.* Or let it bee pointed thus; ἐγὼ μὲν τοῦ Κόσμου Κύριος. ὁ δὲ νομος τῆς θαλάσσης τῷ νόμῳ τῶν Ῥοδίων &c. *I indeed am Lord of the World. But let that Law* or *that Cuſtom of the* Sea *bee judged or determined by the* Rhodian *Law concerning Navigation, ſo far as &c.*

The Caſe was this: *Eudemon Aſiaticus*, born in *Nicomedia*, a Citie of *Bithynia*, having ſuffer'd Shipwrack in the *Telian* Sea (or the *Ægean*, which is about *Telos*) complain's that his Goods were ſeized by the Cuſtomers of the *Cyclades*, petitioning the Emperor for relief, in ſuch a manner as if the Cuſtomers had made an advantage by his misfortune in a moſt injurious manner. Hee ſalute's him with the ſtyle of Lord and Emperor. The Emperor in his Anſwer readily owneth himſelf to bee a Lord, and ſo far a Lord, that hee ſaith the whole Earth, yea, and the world it ſelf was compriſed within his

Lordſhip or Juriſdiction. Therein alſo hee ſignifie's that it belong's to him to reliev Petitioners when wrong is don them : But as to what concern'd the matter of complaint, or the Petition about the wrack't Goods that had been ſeized by the Cuſtomers, that it did not ſufficiently appear whether thoſe Cuſtomers had don it wrongfully. Becauſ (if our former reading, or pointing bee admitted) in general, ſaith hee, and according to Rule, the Sea-Cuſtom, or that Law of the Sea which give's wrack't Goods to the Cuſtomers, hold's good. For, ſo theſe words ὁ δὲ νόμος τῆς θαλάσσης [*but that Cuſtom* or *that Law of this kinde belong's to the Sea*] hath relation to the thing don by the Cuſtomers, as it was in brief ſet forth in the Petition. But in regard that to this Cuſtom or Law of the Sea, there might, either through ſom privilege, or becauſ of the qualitie of the goods, or ſom other Cuſtom no leſs in force, certain Qualifications ariſe, according to circumſtance, in reſpect whereof perhaps either the Cuſtomers ought, in this caſe, to have forborn medling with the goods, or the Complainant might have a ſpecial exception to privilege his goods from Seizure; therefore hee did well to leav it, beeing a matter ſo ſuccinctly and without any addition of circumſtance expreſſed in the Petition, to bee determined by the Naval Laws of the *Rhodians*; but yet ſo far onely as the *Roman* Laws in the mean time were not contrarie thereto. Nor doth the ſenſ much differ, if the latter pointing and tranſlation bee admitted: I indeed am Lord of the world, and the Sea as well as the Land is conteined within my Juriſdiction : in both, I willingly right thoſe that are wronged, according to Law: But truly what the Cuſtom of the Sea may bee in this

this caſe, and whether the Complainant ought to bee relieved, let it bee determined by the *Rhodian Laws*, which, by my permiſsion, are in uſe upon the Sea, where they are not contrarie to our own. But it ſeem's to mee not a little conducing to a confirmation of the fore-going ſenſ, whereby the Maritim Law touching Wrecks and the Right of the Cuſtomers (that is, of the Exchequer, whoſe Right is tranſferr'd into their hands) is aſſerted, if it ſhall bee made appear that ſuch a Law or Cuſtom was in force at that time, which Interpreters are not wont here to grant. It is indeed certain enough according to the Imperial Law (as wee have it now compiled in the Books of *Juſtinian*) that [n] Wrecks are reſerved to the former Owners, and ſo that both the Exchequer and the Cuſtomers are thence excluded: Yea, and that the Cuſtom whereby they are confiſcated, is condemned by the received determinations of the *Roman-German* Empire, as well as the Canon Law, as wee hinted in the former Chapter. But it is collected by manifeſt evidences, that the Law or Cuſtom for Confiſcation of Wrecks was in force, in the time of this Emperor *Antoninus* (I mean *Antoninus Pius*) who, as *Julius Capitolinus* write's did in the eſtabliſhing of this Law, make uſe of *Voluſius Metianus* the Lawyer, out of whoſe Books the Petition and Anſwer here ſpoken of was tranſcribed into the *Digeſts*[o]. It is clear, that almoſt all thoſe Paſſages that wee finde in the *Digeſts* for reſerving them to the former Owners, were taken out of *Paulus*, *Calliſtratus*, and *Ulpian*, who lived many years after this *Antoninus*. There is ſomwhat alſo to this purpoſe out of [p] *Priſcus Javolenus*, who lived at the ſame time with this *Antoninus*. But this Emperor

[n] *L.3.& 21. ff.tit. de adquir.& amittend.poſſeſſ. l. 44.ff.de adquir. rer. dom.l.1.3. & ſeqq.ff. tit. de Incendio.l.1.C.de Naufragiis.*

[o] *Locis ſuperiùs citatis.*

[p] *L.21.ff.tit. de adquir. & amit.poſſeſſ. §.1.*

reigned XXII years, and as appear's out of *Javolenus*, hee did by Decree mitigate the rigor of Confiſcation in this Caſe. From which it might eaſily com to paſs, that under the ſame Emperor ſuch a Law and Cuſtom as wee have mentioned might bee in force, and under the ſame it might either bee abrogated, or the rigor of it abated. The principal Conſtitution, which, according to the [q] Book of *Juſtinian*, would not have the Exchequer to interpoſe in this caſe, is by *Antonius Contius*, a very eminent Lawyer, attributed to the Emperor *Antoninus*, according to the Teſtimonie of an antient Book in Manuſcript; although the name of *Conſtantine* bee put before thoſe that are publiſhed. The words are theſe; *If at any time a Veſſel bee driven a Shore by Shipwrack, or if at any time it run aground, it ſhall belong to the Owners. My Exchequer ſhall not interpoſe it ſelf. For, what right hath the Exchequer by another man's misfortune, that it ſhould ſeek after profit upon ſo ſad an occaſion?* Yea, and *Ulpian* ſhew's, that ſuch a kinde of Conſtitution there was alſo under *Adrian*, who was this man's Father by Adoption. *It is decreed* (ſo ſaith [r] *Ulpian*) *that it may bee lawful for every man, to recover his loſſes by Shipwrack freely; and thus much was ordained by the Emperor* Antoninus, *with the Emperor his Father.* There are in theſe very clear Evidences, that about that time, there was ſuch a Law or Cuſtom of Confiſcation, as wee have mentioned; which wee know very well was wont to take place often, even contrarie to the Autoritie of antient Decrees. For, it may bee concluded from the Shipwrack of *Valgius*, or *Victor*, related by [c] *Paulinus*, that it was in ſom uſe even under *Theodoſius* the elder. There are the like Examples upon the [t] Shore of the *Roman-German* Empire:

And

[q] *L. 1. C. de Naufragiis.*

[r] *L. 12. ff. tit. de Incendio.*

[c] *Epiſt. 37. ad Micarium.*

[t] *Chronic. Albert. Stadenſis, ann. 1112. videſis Frederic. Lindebrog. in Gloſſario, pag. 1443.*

And others may bee brought, whereas notwithſtanding ſom Laws were made to the contrarie.

Moreover alſo, the antient Orators, both Greek and Latin, whilſt they allege Examples about the ſtating of Queſtions in pleading, do mingle this very Law or Cuſtom about Shipwrack with other uſual and antient Cuſtoms in the *Greek* and *Roman* Empire, as a thing that was very frequently received. *Sopater* and [u] *Syrianus in Hermogenem* ſay; *The Law is, that ſpoils which are found, do b long to him that is General of the Army; In like manner the Law is, that Wrecks do belong to the Cuſtomers. In a tempeſtuous Sea, ſpoils are brought into Port. Hereupon ariſeth a controverſie about them, between the Commanders and the Cuſtomers of the Cuſtoms. In this caſe it behove's us not to vex our ſelvs in vain with reading of Laws, but to look into the very nature of things.* For, in truth the Queſtion is, whether the Goods bee now to bee called Spoils or Wrecks. In like manner ſaith, [x] *Curius Fortunatianus; what is a ſimple definition? When wee define a particular thing ſimply. Put caſe, that Wrecks do belong to the Publicans or Cuſtomers. The bodie of a certain man that was loſt by Shipwrack, clothes and all, beeing driven aſhore was cover'd by the Sands. The Cuſtomers came and drew it out. Therefore they are guiltie of the violation of Sepulcre. For here the Queſtion is ſimply, what it is to violate a Sepulcre.*

u Ἐις στάσεις, pag. 107. *Venetiis*, 1509.

x *Artis Rhetoricæ Scholicæ lib.* 1. pag. 46. edit. *Pariſ.* 1599.

Moreover, that, *Voluſius Metianus* wrote that Petition and the Anſwer, appear's *in Libris Publicorum ex Lege Rhodiâ*; that is, in his ſummarie of thoſe Laws which belong either to the Exchequer or the Cuſtomers, wherein alſo is conteined either the Law or Cuſtom of Confiſcation of Wrecks. It ſuit's very well with theſe Particulars, that in that Anſwer of the

the Emperor *Antoninus* thoſe words, ὁ δὲ νόμος τῆς θαλάσσης, ſhould bee rendred, *but that Law of the* Sea or *that Cuſtom of the Sea*, which hee meant ſhould bee ſo examined and determined, according to the *Rhodian Laws*, that in the mean time, thoſe *Rhodian* Laws ſhould not bee of force, if any Reſcript or any *Roman* Law were againſt it. And of what Autoritie *Adrian's* Decree was at that time (whereof *Ulpian* ſpeak's in the places before quoted) perhaps it did not ſufficiently appear, no not to the Lawyers themſelvs without a more curious examination, whoſe aſsiſtance *Antoninus* made uſe of in his Anſwer. But, that wee may at length diſpatch this particular; no man whatſoêver, whether hee approve the common Tranſlation, or mine, will (I ſuppoſe) unleſs hee renounce his own reaſon, conceiv, upon a due conſideration of the whole matter, that any denial is made of the Dominion of the Sea in that Anſwer, or that the leaſt Tittle can bee found in it againſt the Dominion thereof.

An Anſwer to the Opinions *of* modern Lawyers, *ſo far as they oppoſe a* Dominion *of the Sea; eſpecially of* Fernandus Vaſquius, *and* Hugo Grotius.

Chap. XXVI.

HAving thus refuted, or upon good ground removed ſom Opinions of antient Lawyers, which are uſually alleged for the mainteining of a perpetual Communitie of the Sea; it is no hard

hard matter in like manner to wave the Autoritie of thoſe of later time, that oppoſe a Dominion. For, if wee conſider the great number of thoſe, who, whether they comment upon the bodie of *Juſtinian*, or treat apart of this particular, would not have us to recede from that natural Communitie; wee ſhall finde plainly that they deal in the ſame manner, as they that have pinn'd their Faith, more then was meet, upon the ſleev of *Ulpian*, or ſom other ſuch antient Autor: Unleſs wee conceiv that ſom of them did not ſo much explain the Law in this point, as recite the opinions of Lawyers, ſo far as they have been by them deliver'd: Juſt in the ſame manner, as if a man ſhould ſo diſcourſ upon *Ariſtotle's* Aſtronomie, or the opinion of *Thales* touching the Earth's floating, like a Diſh in the Sea, and that of the Stoïcks of its encompaſſing the Earth like a Girdle, with that of the Antients concerning an extreme heat under the Equinoctial, and other opinions of that kinde, which are rejected and condemned, by the obſervation and experience of Poſteritie; that hee might ſeem not ſo much to ſearch into the thing it ſelf, as to repreſent the perſon of the Autor, thereby to trace out his meaning, onely for the diſcovering of his opinion. But as the root beeing cut, the Tree fall's, ſo the Autoritie of thoſe antient Lawyers beeing removed out of the way, all the determinations of the modern which are ſupported by it, muſt bee extremely weakned.

Now therefore, as to what hath been formerly alleged out of *Fernandus Vaſquius*, it is grounded upon ſuch Arguments as are either manifeſtly falſ, or impertinent. For, what is this to the purpoſe?

That the Sea, from the beginning of the world to this present day, is, and ever hath been in common, without the least alteration, as 'tis generally known. Whereas the quite contrarie is most certainly known to those, who have had any insight into the received Laws and Customs of Ages and Nations. That is to say, that by most approved Law and Custom, som Seas have passed into the Dominion and partrimonie, both of Princes and private persons; as is clearly made manifest out of what hath been alreadie shewn you. Moreover also hee [a] would have prescription to ceas betwixt Foreigners in relation to each other; and not to take place in the Law of Nations, but in the *Civil* onely; so that by his Opinion presciption should bee of no force between those (as between two supreme states or Princes) who are not indifferently subject to the Civil Law, which admit's prescription; then which not any thing can bee said or imagined more absurd. Almost all the principal points of the *Intervenient Law of Nations*, beeing established by long consent of persons using them, do depend upon prescription or antient Custom. To say nothing of those Princes, whose Territories were subject heretofore to the *Roman* Empire, and who afterwards became absolute within themselvs, not onely by Arms, but also by prescription (which is every where admitted among the Laws of Nations;) whence is it that Prisoners of war are not now made slaves among Christians, unless it bee becaus that Custom began to grow out of date som Ages since upon a ground of [b] Christian brotherhood, and by prescription ratified betwixt Nations. Whence is it that the ransoms of prisoners are to bee paid, som to the Princes, and som to the Persons that

[a] *Illustrium Controvers. lib. 1. cap. 51. §. 23. unde & V.Cl. Hugo Grotius in Mari Libero, cap. 7.*

[b] *Suarez de Legibus, lib. 20.*

that take them? As for instance, when the ransom is not above ten thousand Crowns, it goe's to him that took the Prisoner; when it exceed's, it is to bee paid to the Prince. *Becaus* (saith [c] *Nicolaus Boërius*) *if it exceed, as when any one hath taken a Duke, a Count, a Baron, or any other great man, then it belong's to the Prince, and so it is observed in the Kingdoms of* France, England *and* Spain. *It hath by prescription of time been observed among Princes; and so it became Law.* And truly, to deny a Title of prescription wholly among Princes, is plainly to abrogate the very intervenient Laws of Nations. As for those other things mentioned by *Vasquius*, concerning Charitie and the inexhaustible abundance of the Sea (whereby hee make's a difference betwixt Rivers and Seas) and other things of the like nature, they have no relation at all to the point of Dominion; as you have been sufficiently told alreadie.

[c] *In Decisionibus Burdegal. decisione* 178. *num.* 4.

In the next place, wee com to the other, to wit, *Hugo Grotius*, a man of great learning, and extraordinarie knowledg in things both Divine and Humane; whose name is very frequent in the mouths of men every where, to maintein a natural and perpetual Communitie of the Sea. Hee hath handled that point in two Books; in his *Mare Liberum*, and in that excellent work *De Jure Belli & pacis*. As to what concern's *Mare Liberum*, a Book that was written against the *Portugals* about trading into the Indies through the vast Atlantick and Southern Ocean; it contein's indeed such things as have been delivered by antient Lawyers touching communitie of the Sea; Yea, and disputing for the Profits and Interests of his Countrie, hee draw's them into his own partie; and so endeavor's to prove that the Sea

is not capable of private Dominion. But hee hath so warily couched this subject with other things, that whether in this hee did hit or miss, the rest howsoever might serv to assert the point which hee was to handle. Moreover, hee discourseth about the Title of Discoverie, and primarie occupation (pretended to by the *Portugals*) and that also which is by Donation from the *Pope*. And hee seem's in a manner, either somtimes to quit that natural and perpetual Communitie, which many Civil Lawyers are eager to maintein, and hee himself, in order to his design, endeavored to confirm; or elſ to confess that it can hardly bee defended. For, concerning those Seas that were inclosed by the antient Romans; *the nature of the Sea*, saith [d] hee, *differ's from the Shore in this, that the Sea, unless it bee in som small part of it self, is not easily capable of Building or Inclosure. And put case it were, yet even this could hardly bee without the hindrance of common use. Nevertheless, if any small part of it may bee thus possessed, it fall's to him that enter's upon it first by occupation.* Now, the difference of a lesser and a greater part, cannot take place (I suppose) in the determining of private Dominion. But in expres words hee except's even a Bay or Creek of the Sea. And a little after, saith hee, *Wee do not speak here of an In-land Sea, which in som places being streightned with Land on every side, exceed's not the breadth even of a River, yet 'tis clear that this was it the* Roman *Lawyers spake of, when they set forth those notable determinations against private Avarice. But the Question, is concerning the Ocean, which Antiquitie called* immense Infinit, *the Parent or Original of things, confining with the Aër.* And afterwards hee saith, *The Controversie is not about a streight or Creek in this Ocean, nor of so much*

[d] *Mari libero, cap. 5.*

much as is within view when one stand's upon the shore. A little farther also, speaking of *Prescription*, hee saith, [e] *It is to bee added, that their Autoritie who are of the contrarie opinion, cannot bee applied to this Question. For, they speak of the Mediterranean Sea, wee of the Ocean. They of a Creek or Bay, wee of the broad and wide Sea, which differ very much in the point of Occupation.* And certainly, there is no man but must conceiv it a very difficult thing to possess the whole Ocean: Though if it could bee held by occupation, like a narrow Sea, or a Creek, or as the whole world was said to bee possessed at first by antient Princes, it might even as well pass into the Dominion or Ownership of him that should enter upon it first by occupation. Howsoever, there have been [f] som others, who by the same Rule distinguish in like manner the inner and neighboring Seas from the open Sea or main Ocean.

[e] *Cap.* 7.

[f] *Jo. Gryphiander, de Insulis, c.* 25. *§.* 52.

But it is by no means to bee omitted, that they, for whose sakes *Hugo Grotius* wrote that Book, that is to say, the States of *Holland*, did, not unwillingly, but rather (as it seem's) according to their own hearts desire, give ear to the condemnation of that Opinion (especially becaus it was owned by *Grotius*) concerning a Communitie of the Sea and freedom of Fishing therein according to the Law natural and of Nations, by the Embassador of *James* King of great *Britain*, in a speech of his deliver'd openly in *Holland*; and that others were gravely admonished from his misfortune, not to maintein the like. Of which thing *Grotius* himself bear's witness. [g] *I have labored*, saith hee, *as much as any to maintein the Right of Navigation to the* Indies, *and for the preservation of Clothdressing in our Countrie. But for the freedom of Fishing at Sea so much, that* Carleton *the King of great*

[g] *In Apologetico eorum qui Hollandiæ præfuerunt ante mutationem* 1618. *p.* 387. *edit. Heidelberg. cap.* 19. *pag.* 257.

Britain's *Embaſſador*, *beeing incited by my enemies to ſpeak ſomwhat in publick againſt mee beeing at* [h] *that time in Priſon*, *hee had nothing elſ to ſay*, *but that I had begun to make ſom Diſcourſes in defence of that freedom*, *as a thing grounded upon the Law of Nations*, *and Cuſtom*, *time out of minde*; *whereas notwithſtanding*, *nothing had been ſaid or written by mee upon that ſubject*, *different from thoſe things which the State's Embaſſadors had mainteined in* Britain *in the year* MDCX; *and our Anceſtors before*, *even for ſom Ages paſt. And yet that Embaſſador ſaid*, *that others ought to bee terrified by the example of my miſfortune*, *from defending that Opinion.* It is true indeed, that perſons in power uſually take a libertie to aſperſ men as they pleaſ when they are in queſtion: But theſe things were not ſpoken ſo much againſt *Hugo Grotius*, as againſt that natural Right of Communitie at Sea (injuriouſly pretended to) which many men have defended more expreſsly and plainly then himſelf; but none, with ſo much learning and ingenuitie. Nor did that Speech of the Embaſſador, for ought wee know, as things then ſtood, diſpleaſ the States of *Holland*.

[h] Hee was impriſoned for having an hand in *Barnevel's* buſineſs.

But in his Books [i] *de Jure Belli & Pacis*, having indeed ſet down the reaſon of the original of private Dominion to bee upon this ground, that thoſe places which became peculiarly aſsigned were not ſufficient for the maintenance of all men, hee concludes that the Sea, becauſ of its bigneſs and inexhauſtible abundance, beeing ſufficient for all, cannot bee appropriated to any. Hee add's other things alſo, touching the nature of the Seas not beeing diſtinguiſhable by Bounds; of both which wee have ſaid enough alreadie. But at length hee betake's himſelf to the received Cuſtoms of Nations and ſpeak's more then once,

[i] *De Jure Belli & Pacis*, *lib.* 2. *cap.* 2. §. 2. & 3.

once concerning the proprietie or private Dominion of the Sea, as of a thing ſomtimes to bee yielded without Controverſie. *The Land*, ſaith [k] hee, *and Rivers, and any part of the Sea, in caſe it com under the proprietie of ſom Nation, ought to bee open for ſuch as have need of paſſage upon juſt and neceſſarie occaſions.* Afterwards alſo, ſpeaking of the [l] proprietie of Rivers, *After this example*, ſaith hee, *it ſeem's that even the Sea may bee poſſeſſed by him that is Owner of the Land on both ſides, although it lie open either above, as a Creek; or above and below too, as a ſtreight or narrow Sea: So that it bee not ſo great a part of the Sea, that beeing compared with the Lands it cannot ſeem to bee any portion of them. And that which is lawful for one Prince or People, the ſame ſeem's lawful alſo for two or three, if in the like manner they pleaſ to enter upon the Sea flowing between. For ſo, Rivers that flow between two Nations, have been entred upon by both, and then divided.* Hee allegeth other things alſo touching the Right of primarie occupation by Sea; but ſo, that for the moſt part hee contein's himſelf within Creeks and ſtreights. [m] Hee ſaith, that not by any natural Right or Reaſon, but by Cuſtom it came to paſs, that the Sea was not appropriated, or that it could not lawfully bee entred upon by Right of Occupation. And that the Cuſtom beeing changed, if there were any in the antient Law that might hinder a private Dominion of the Sea, the reaſon of Communitie muſt bee changed alſo. But that it hath been ſufficiently changed, appear's abundantly (if I bee not deceived) out of what wee have hitherto ſhewn you. Yea, the very Laws as well * Civil as Intervenient of moſt Nations make abundantly to this purpoſe, as it hath been proved.

[k] *Ibidem.* §. 13.

[l] *Ibid. Cap. 3.* § 8.

[m] *Ibidem.* §. 19.

* The ſame with Municipal.

Moreover,

Moreover, that nothing may bee wanting to weigh down the Ballance, therefore, beſides the opinions of the Civil Lawyers before-alleged out of *France*, *Spain*, and *Italie*, for a private Dominion of the Sea, let this over and above bee added, which is taken out of that ſort of Lawyers alſo, diſcourſing in general terms about the Sea. I here give it you as it was compoſed by a Lawyer, none of the meaneſt in the *Roman-German* Empire, by name [n] *Regenerus Sixtinus*, who was indeed againſt private Dominion of the Sea. *The matter in queſtion*, ſaith hee, *concerning the Sea and its Shore, is, whether as Rivers that are navigable, and by which others are made navigable, they may bee reckoned* inter Regalia **among the Prince's Roialties:** (for, whatſoëver is reputed a part of thoſe *Regalia* or Roialties, is as private or peculiar to Princes, as that is to ſubjects which is their own; for which cauſ the Revenues of the Exchequer are private after the ſame manner;) *ſo alſo, whether the Sea it ſelf and its Shore, bee compriſed within thoſe* Regalia? *Cacheranus*, *Deciſ.* 155. *n.* 81. *Ferrarius Montanus*, *de Feud. lib.* 5. *c.* 7. [o] *reckon's the regulation and the very dominion alſo of the Sea among the* Regalia, *nor doth hee make any difference betwixt the Sea and a publick River.* Mynſingerus *alſo*, *Reſp.* 1. *nu.* 162. *Decad.* 11. *ſaith*, *that the proprietie of the Sea is a part of thoſe* Regalia. But *Sixtinus* himſelf, diſcourſing upon this matter, juſt as they do that are more addicted than they ought to the words of *Ulpian*, and numbring up thoſe Autors that are of the contrarie opinion, concludes thus, *But more true it is that a proprietie of the Sea and Shore, is not by the Common Law to bee reckoned among the Regalia.* But upon due conſideration of all thoſe particulars, which hither-

to

[n] *De Regalibus, lib. cap.* 4. §. 97.

[o] *Verſic. Tametſi Jus piſcandi.*

to have been produced out of the Customs of so many Ages and Nations, and as well out of the *Civil*, as the *Common* or *Intervenient Law* of most Nations, no man (I suppose) will question but that there remain's not either in the nature of the Sea it self, or in the Law either *Divine*, *Natural*, or of *Nations*, any thing which may so oppose the private Dominion thereof, that it cannot bee admitted by every kinde of Law, even the most approved; and so that any kinde of Sea whatsoever may by any sort of Law whatsoever bee capable of private Dominion; which was the thing I intended to prove.

The End of the first Book.

Touching the

DOMINION,

OR,

Ownership of the Sea.

BOOK II.

The order or Method *of those things that are to bee handled in this Book. The* British Ocean *divided into four parts.*

Chap. I.

HAving made it evident, in the former Book, that the Sea is capable of private Dominion as well as the Land, and that by all kindes of Law, whether wee seriously consider the *Divine*, or *Natural*, or any *Law of Nations* whatsoever; it remain's next that wee discourse touching the Dominion of *great Britain* in the Sea en-

encompaſsing it about, and of thoſe large Teſtimonies whereby it is aſſerted and mainteined. Wherein this Method is obſerved, that in the firſt place wee premiſe both the diſtribution and various appellation of the Sea flowing about it, in order to the Diſcourſ. Then it ſhall bee ſhewn, from all Antiquitie, down to our times without interruption, that thoſe, who by reaſon of ſo frequent alterations of the ſtate of Affairs, have reigned here, whether *Britains*, *Romans*, *Saxons*, *Danes*, and *Normans*, and ſo the following Kings (each one according to the various latitude of his Empire) have enjoied the Dominion of that Sea by perpetual occupation, that is to ſay, by uſing and enjoying it as their own after a peculiar manner, as an undoubted portion either of the whole bodie of the eſtate of the *Britiſh* Empire, or of ſom part thereof, according to the ſtate and condition of ſuch as have ruled it; or as an inſeparable appendant of this Land. Laſtly, that the Kings of Great *Britain* have had a peculiar Dominion or proprietie over the Sea flowing about it, as a Bound not bounding their Empire, but (to borrow the Terms uſed by Surveiors of Land) as bounded by it; in the ſame manner as over the Iſland it ſelf, and the other neighboring Iſles which they poſſeſs about it.

The Sea encompaſsing great *Britain*, which in general wee term the *Britiſh* Sea, is divided into four parts, according to the four Quarters of the World. On the Weſt lie's the *Vergivian* Sea, which alſo take's the name of the *Deucaledonian*, where it waſheth the Coaſt of *Scotland*. And of this *Vergivian*, wherein *Ireland* is ſituate, the *Iriſh* Sea is reckoned to bee a part, called in antient time the [a] *Scythian Vale*, but now the *Channel of St George*. So that as well that which waſheth

[a] *Gildas*, *Epiſt. de Excidio Britanniæ.*

washeth the Western Coast of *Ireland*, as that which flowe's between great *Britain* and *Ireland*, is to bee called the *British* Sea. For, not onely this (which of old was called great *Britain*, and somtimes simply the [b] *Great Island*) but also the Isle of *Ireland*, with the other adjacent Isles, were termed *Britanniæ*: So that many times *Albion* and *Ireland* are equally called *British* Isles and *Britannides*; as you may see in *Strabo*, *Ptolomie*, *Marcianus Heracleötes*, *Plinie*, *Eustathius* upon *Dionysius Afer*, and others. Moreover, *Ireland* is called by *Ptolomie* [c] Μικρὰ Βρεττανία *little* Britain. And, saith *Ethelward*, an antient Writer, [d] *They go to* Ireland, *called heretofore* Britannides *by the great Julius Cæsar*. Perhaps hee had a more perfect Copie of *Julius Cæsar*'s Book: For in none of his Commentaries which wee use, is *Ireland* called by that name. And it hath been observed by [e] learned men, that that book hath been maimed and alter'd by one *Julius Celsus*, whose name wee finde now and then in the Manuscript Copies.

[b] *Aristides, in Oratione Ægyptiacâ.*

[c] *Magnæ Constructionis, lib. 2.*

[d] *Lib. 4. c. 4.*

[e] *Lipsius Epistolicar. quæst. lib. 2. cap. 3. & Elect. lib. 2. cap. 7.*

Towards the Nor h this Sea is named the Northern, *Caledonian*, and *Deucaledonian* Sea, wherein lie scatter'd the *Orcades* Islands, *Thule*, and others, which beeing called the *British* or *Albionian* Isles; yea, and * *Britannides*, gave name to the neighboring Sea. And indeed *Thule* (which som would have to bee *Island*; others, and that with most reason, do conceiv it to bee the biggest of the [f] *Shetland* or *Zetland* Isles, called **Thilenfel** by the [g] Seamen, and som there are again that think otherwise) was of old not onely termed a *British* Isle, but also by som expressly placed in *Britain* it self. *Mahumedes Acharranides* an Arabian, called likewise *Aracensis* and *Albategnius*, a famous Mathematician, who lived above nine hundred years ago, saith,

* *Jo. Tzetzes, Chiliad. 8. cap. 218.*

[f] *Guil. Camden. in Insul. Brit. p. 850.*

[g] *Gaspar. Peucerus, lib. de Terræ dimensione.*

saith, [h] *Som observing the breadth of the Earth from the Equinoctial Line towards the North, have found it to bee determined by the Isle* Thule *which is in* Britain, *where the longest day is* XX *hours*; that is to say, *Ptolomie* and his Followers, who by drawing a Line on the Northside of *Thule* or the *Shetland Isles*, through 63 degrees, and a quarter of Northern Latitude, have set it down for the utmost Bound of the habitable world. Yea, and som have used the name of *Thule* for Britain it self or *England*. In times past, the Emperor of Constantinople was wont to have trustie Guards called *Barrangi*, constantly attending his person; who were taken out of *England*, as appear's out of [i] *Nicetas Choniates*; and *Codinus* also who was keeper of the Palace, [k] write's that they were wont to salute the Emperor with a loud voice Γκλινσ *in the English Tongue*. But in the Storie of [l] *Anna Comnena*, the Daughter of *Alexius*, it is said expressly, that they came ἐκ τῆς Θούλης νήσου *from the Island of Thule*. In like manner, all the Islands either known or heard of in this Northern Sea, were at length called by the name of *British*; the utmost Bounds whereof, as also of *Thule* it self, som of the Antients would have to reach unto 67 degrees of Latitude, or thereabout. And *Albategnius*, speaking of the Sea as it look's toward *Spain*, saith; [m] *There are* XII *British Isles in it towards the North; and beyond these it is not habitable; and how far it stretcheth, is unknown.*

[h] *De Scientiis Stellarum, lib. cap. 6.*

[i] *Hist. Græc. lib. 2.*

[k] *De Officiis Constantinop.*

[l] *Alexiados, lib. 2.*

[m] *De Scientiis Stellarum, cap. 6.*

Upon the Eastern Coast of *Britain* flow's the *German* Sea (so called by *Ptolomie*, becaus it lie's before the *German* Shore.) On the South, flow's that which is particularly noted by *Ptolomie* to

bee

bee the *British* Sea. But all that was called also the *British* Sea, which extend's it self like a half Moon along the *French* Shore, through the Bay or Creek of

of *Aquitain*, unto the Northern Coaſt of *Spain*. For this wee have the Teſtimonie of *Mela*, who ſaith the Pyrenean Promontories do butt out into the *Britiſh* Sea. [n] *The Pyrenie*, ſaith hee, *run's firſt from hence into the Britiſh Sea; then turning towards the continent, it ſtretcheth as far as Spain.* Yet every man knowe's it is called likewiſe either the *French*, or *Contabrian*, or the *Aquitanick* Sea, from the ſeveral Shores which it waſheth. But ſo far even the name both of the *Britiſh* and *Engliſh* Sea was inlarged either by that extraordinarie Command of the people of *Britain* at Sea, or of ſuch as had atteined the Rights of Dominion in Great *Britain* (which is all one to our purpoſe.) And it is ſtretch't likewiſe by ſom of the Antients as far as the Promontorie *Nerium*, now called *Capo di St Maria*. The *Arabian* Geographer ſaith; [o] *Towards the North, Andaluzia* (ſo the *Arabians* uſe to call *Spain*) *is environed by the Sea of the people of* England, *who are of the* Romans, that is, who are of the people of *Europe*; for, it is uſual with thoſe Eaſtern Nations to call the people of *Europe*, generally either *Romans* or *French*. And then hee ſaith, *There are nine Stages from* Toledo *to* St James, *which is ſeated upon the Engliſh Sea.* Moreover, hee call's the Place, where that Citie of St *James* is ſeated, [p] *a Promontorie of the Engliſh Sea*; and hath divers other paſſages of the ſame kinde. Thus at length *great Britain*, with the Iſles lying about it, and the Sea imbracing it on everie ſide, became as it were one Civil Bodie, ſo that the whole together is comprehended in the name of *Britiſh* or *Britannick*. Alſo, this Sea and Great *Britain* have indeed given mutual names as it were of Dignitie to each other. That is to ſay, this Iſland was called by the Antients ſimply [q] *Inſula Cæruli*, **the Iſle of the Sea,**

as

[n] *De Situ Orbis, lib. 2. cap. 3.*

[o] *Climat. 4. part. 1.*

[p] *Climat. 5. part. 1.*

[q] *In Catalectis Virgilii*, de Sabino.

as that was called *Oceanus Inſulæ*, **the Ocean of the Iſle**, or the *Britiſh Sea*.

Having made this preparation, then wee treat firſt concerning the Sea-Dominion of the *Britains*, before they were reduced under the *Roman* power; Next, touching a Dominion of that kinde belonging to the *Romans* while they ruled here, continually and neceſſarily accompanying the Soveraigntie of the Iſland. Afterwards, it is made evident by ſuch Teſtimonies as are found among the Antients, that the *Engliſh Saxons* and others who enjoied the ſupreme Power in *Britain*, before the *Norman's* Invaſion, had ſuch a kinde of Dominion. Laſtly, according to the fourfold diviſion of the *Britiſh* Sea, wee ſet forth the antient Occupation, together with the long and continued poſſeſsion of every Sea in particular, ſince the *Norman's* time; whereby the true and lawful Dominion and Cuſtoms of the Sea, which are the ſubject of our Diſcourſ, may bee drawn down, as it were by a twin'd thred, until our own times. Moreover, ſeeing both the Northern and Weſtern Ocean do ſtretch to a very great Latitude, (this to *America*; that not onely to *Iſland* and the Shores of *Groenland*, but to parts utterly unknown), and ſo it cannot all bee called the *Britiſh Seas*; yet becauſ the Nation of great *Britain* have very large Rights and Privileges of their own in both thoſe Seas, even beyond the bounds of the *Britiſh* name, therefore it was thought fit to touch a little upon theſe Particulars.

That the antient Britains, *did enjoy and poſſeſs the* Sea *of the ſame name; eſpecially the* Southern *and* Eaſtern *part of it, as Lords thereof, together with the Iſland,* before they were brought under the *Roman* power.

Chap. II.

[a] *Hugo Grotius, de Jure Belli & Pacis, lib. 2. c. 3. §. 11.*

IT is true indeed which an eminent man ſaith; [a] *That the Sea hath been enjoyed by Occupation, not for this reaſon onely, becauſ men had ſo enjoied the Land, nor is the Act or intent of the minde ſufficient thereto; but that there is a neceſsitie of ſom external Act, from whence this Occupation may bee underſtood.* Therefore Arguments are not to bee derived altogether from a bare Occupation or Dominion of Countries, whoſe Shores are waſhed by the Sea: But from ſuch a private or peculiar uſe or enjoiment of the Sea, as conſiſt's in a ſetting forth Ships to Sea, either to defend or make good the Dominion; in preſcribing Rules of Navigation to ſuch as paſs through it; in receiving ſuch Profits and Commodities as are peculiar to every kinde of Sea-Dominion whatſoêver; and, which is the principal, either in admitting or excluding others at pleaſure. Touching which particular, wee ſhall make diligent inquirie into thoſe things which concern the Iſle of *Britain*, through the Ages paſt, down to the preſent time.

It is upon good ground concluded, that the moſt antient

antient Hiſtorie, whereto any credit ought to bee given about the affair's of *Britain*, is not elder then the time of *Caius Julius Cæſar*; the Ages before him beeing too obſcured with Fables. But at his coming wee finde clear paſſages of the *Britain*'s Ownerſhip and Dominion of the Sea flowing about them, eſpecially of the South and Eaſt part of it, as a perpetual Appendant of the Soveraigntie of the Iſland. For, they not onely uſed the Sea as their own at that time for Navigation and Fiſhing; but alſo permitted none beſides Merchants to ſail unto the Iſland without their leav; nor any man at all to view or ſound the Ports and Sea-Coaſt. And that the Caſe ſtood certainly thus, it is no ſlight Argument which wee ſhall inſert here out of *Cæſar* himſelf. But allowance muſt bee given ever to Arguments and Conjectures, touching times ſo long ſince paſt and gon; eſpecially when there is a concurrence in the Cuſtoms and Teſtimonies of following times. And as things beeing placed at too remote a diſtance, ſo that they cannot bee certainly diſcerned by the eie, are wont to bee more ſurely diſcover'd by the help of a triangle at hand; So what uncertainty ſoêver may bee in thoſe proofs that are to bee brought out of ſo remote Antiquitie, I queſtion not but it will bee made ſufficiently manifeſt by the continued and more certain uſage and Cuſtom of later times, as ſhall bee abundantly made evident in the following Diſcourſ.

As to what concern's the *Britains* particular uſe of Navigation, in that antient time, without which an Occupation of this kinde cannot bee had; notwithſtanding that at *Cæſar*'s firſt arival, they were [b] terrified with the ſight of that unuſal kinde of long Ships;

[b] *Cæſar de Bello Gallico, lib. 4. & 5.*

and though at his second coming with a multitude of Vessels of all kindes (beeing [c] re-inforced to the number of eight hundred; or, as som would have it, to a thousand) they fled in a great fright from the Shore, not beeing sufficiently provided for such a Sea-fight as was then at hand, and which they had never been acquainted with; nevertheless, it is most certain, that they had Vessels of their own, wherein they used to coast about the neighboring Sea, and so entred upon it corporally by Occupation. Mention is made indeed by Writers of som of their Vessels more notable then the rest, which they frequently used, beeing framed with twigs (as the fashion hath been in the more antient Nations) and cover'd with Ox-hides after their usual manner. Moreover, *Festus Avienus*, speaking of the antient Inhabitants of the *OEstrymnides*, or the Islands called the * **Sillyes**, with the rest lying about, thus expresseth himself;

[c] *Guil. Pictavienſis, in geſtis Willielmi Regis* 1.

*Andr. Schot. *Obſervat. Hiſtoric. lib.* 3. 22. §. 6.

[d] *In Oris Maritimis.*

——— [d] *rei ad miraculum,*
Navigia junctis ſemper aptant pellibus,
Corióque vaſtum ſæpe percurrunt Salum.

'Tis strange! There Ships they frame with Dres-hide,
And scout in Leather through the Ocean wide.

And what hee saith of their continual care of Traffick and Custom of Navigation, concern's others as well that were under the *British* Government. Yet it is not to bee conceived, that these twig and Leathern Vessels of the *Britains*, were all of them unfit for making war by Sea (according to the manner of that Age and of the neighboring Nations) nor

nor that they were less fit for long journies at that time; seeing [e] *Plinie* write's expressly, that somtimes they sailed through the Sea in the space of six daies. In like manner wee read in the *British* [f] Historie, that about *Cæsar's* time, *Lud* King of *Britain* seized upon many Islands of the Sea in a way of war, which denote's that hee had a very considerable strength at Sea, and a well accomplished Navie. It is true indeed, that there were small Vessels among these (as they are no where without them) which doubtless were unfit to bear the brunt of a Fight or Tempest; that is to say, such as *Cæsar* made to transport his Souldiers over the River, when hee was streightned by *Afranius* his Armie, *as hee had been taught* (they are his [g] own words) *som years before by the Custom of* Britain. *The Keels and Ribs were first made of slight matter. The rest of the bulk of their Vessels, beeing wrought together with Twigs, was cover'd with Hides*; which wee finde mentioned also by *Lucan*,

[e] *Hist. Natur. lib. 4. c. 16.*

[f] *Henric. Huntingdon. Hist. lib. 1.*

[g] *De Bello Civili. lib. 1. cap. 54. &* videsis *Solinum, ca. 25.*

[h] *Primùm cana salix, madefacto vimine, parvam*
Texitur in puppim, cæsóque inducta juvenco,
Vectoris patiens, tumidum circumnatat amnem.
Sic Venetus stagnante Pado, fusóque Britannus
Navigat Oceano. ——————————

[h] *Pharsal. 4.*

——————* **Of twigs and willow Boord,**
They made small Boats cover'd with Bullocks Hide,
In which they reach't the river's farther side.
So sail the Veneti, **if** Padus **flow,**
The Britains **sail on their calm Ocean so.**

*Translated by my learned friend Mr *Thomas May.*

Others there are also that write of these small Vessels. But they are not (I suppose) at least in that Age, to bee called small Ships, which sailed through the

Sea in six daies space, nor such as *Cæsar* made onely to transport his Souldiers, and conveied them by Cart above XXII miles, according to his own Relation. It cannot bee doubted therefore, but that the *Britains* had Vessels made even of the aforesaid matter, big enough and very fit for service at Sea. Moreover, there will bee very good ground to conceiv out of what wee shall deliver by and by, about the excluding of their Neigbors from the adjacent Sea, that they were wont to build and set forth Ships of war, of a far more commodious and solid substance, for the guarding of their Sea and the Isles. But their use of frequent Fishing (though [i] som write that the more Northerly *Britains* did never eat fish) may bee collected upon this ground, that the better and more Civil sort of them were wont to embellish the Hilts of their Swords with teeth of the bigger Fishes. So saith *Solinus* [k], *They which endeavor to bee neat, do burnish the hilts of their Swords with the teeth of such great Animals as swim in the Sea, becaus they are as white and clear as Ivorie: For, the men take an extraordinarie pride in the brightness of their Arms.* Now, I suppose, that without an extraordinarie abundance of such kinde of Animals, which could not bee caught without great pains and numbers of Fishermen, there could not have been matter enough of this kinde to serv for the triming of a most warlike Nation; wherein it was a Custom for the Mother of every man-child to put the first Food that hee received into his mouth, upon the point of its Father's Sword, in token of a warlike disposition. And the Mothers usual Blessings were to this effect, that their Sons might die no other death then in War and Arms. I know these words of *Solinus* are commonly taken by Writers,

[i] *Dio Cassius, lib. 76.*

[k] *Polyhist. cap. 25.*

Writers, as if they had been ſpoken onely of the Inhabitants of *Ireland* : wherein, if I underſtand any thing, they are plainly miſtaken. The words of *Solinus* in his Chapter concerning *Britain*, are theſe; *The extremitie of the* French *Shore had been the utmoſt bound of the world, did not the Iſle of* Britain *deſerv the name almoſt of another world. For it is ſtretch't above* 800 *miles in length, if ſo bee wee meaſure it as far as the utmoſt point in the North of* Scotland, *where* Ulyſſes *once arrived, as appear's by an Altar there with an Inſcription upon it in Greek Letters. It is encompaſſed with many conſiderable Iſlands, whereof* Ireland *is next to it in bigneſs. It is a barbarous Countrie, by reaſon of the rude behavior of the Inhabitants; otherwiſe, of ſo rank a paſturage, that unleſs Cattel bee ſomtimes driven from the Paſtures, they run a hazard by too much feeding. There is no Serpent to bee found, and but few birds; The people are inhoſpitable and warlike : And after a victorie, they firſt take a draught of the bloud of the ſlain, and then beſmear their Faces. Right or wrong is all one to them. A woman, when ſhee bring's forth a male, put's its firſt food upon her husbands Sword, and ſtealing it into the little ones mouth with the very point, ſhee pronounceth her bleſsing according to the Cuſtom of the Nation; with this wiſh, That bee may die no other death but in War and Arms. They that endevor to bee neat, do burniſh the Hilts of their Swords, & cætera,* as it followeth above. Hee treat's next of ſom Iſlands that lie about it; as *Thanet*, the *Hebrides*, *Oreades*, and *Thule*; and as to what concern's their manners, hee conclude's that *Britain* is inhabited in part by barbarous people, who from their childhood, by artificial ſtripes of divers forms, imprint the likeneſs of ſeveral living Creatures, up and down their bodies : As is ſufficiently known out of *Cæſar* and

and other Writers. But now, if thoſe words which follow that brief deſcription, wherein the firſt mention of *Ireland* is made, were to bee underſtood of the *Iriſh*, not of the people of great *Britain*, then it would follow there, that *Solinus* forgetting what hee had propoſed in the very entrance of his Diſcourſ, paſſed immediately from great *Britain* unto *Ireland* and the neighboring Iſles; and that hee made not any mention of the Cuſtoms of its Inhabitants, beſides the ſtriping of their skins with divers ſhapes, and this at the latter end of the Chapter: which I can not in any caſe believ. Nor is it agreeable to the ſcope of his diſcourſ, that *Ireland* ſhould bee meant in this place, as well as great *Britain*. For, of *Britain* hee ſaith, *It is encompaſſed with many conſiderable Iſlands, whereof* Ireland *is next to it in bigneſs. It is a barbarous Countrie, by reaſon of the rude behavior of the Inhabitants, &c.* Then, this more large deſcription of its manners and Cuſtoms which immediately followeth, is no otherwiſe joined to the mention of *Ireland* in the Edition of *Delrio*, and moſt of the reſt which wee have followed in the place before-alleged. And who ſeeth not that the beginning of that deſcription, and ſo what follow's, ought with much more reaſon to bee referr'd thus to *Britain*, concerning which his purpoſe is to treat, then to *Ireland*, whoſe name is inſerted onely by the way. Nor doth that hinder at all which wee read there about *Serpents*. I confeſs it to bee moſt true indeed, if ſpoken of *Ireland*, wherein there is no venemous Creature; and falſ, if of *Britain*. But yet even this alſo hath been believed of our Countrie of *Britain*, and that in the clearer light of learning in time paſt; As appear's not onely by the Books of *Cardan de Subtilitate*, wherein hee denieth

[l] denieth that *Britain* entertain's any ſuch Creature,) but alſo out of *Scaliger*'s [m] *Exercitations* upon him, who in like manner affirm's this, and ſpend's Diſcours to no purpoſe to finde out the reaſons why *Britain* hath not any venemous Creatures: which is ſtrange indeed, ſince hee wrote ſo eagerly againſt the other; yea, and both of them beeing very famous men, and moſt expert Naturaliſts, lived ſom time in Britain. But errors of this kinde (as wee ſee alſo in *Solinus* concerning Birds and Bees) are not unuſual among Writers: And it was a common courſ for a *Roman* Writer to attribute extreme Barbariſm (as *Solinus* doth in this place) to ſuch forreign Nations as were not in amitie with the *Romans*. Now, as to this paſſage which is found in ſom Editions; [*It is encompaſſed with many conſiderable Iſlands, whereof* Ireland *is next to it in bigneſs, a* [n] *barbarous Countrie becauſ of the rude behavior of the Inhabitants &c.*] as if the following words did by a continued ſenſ and order relate unto *Ireland*; it beeing indeed contrarie to the truth of ſom antient Copies and the moſt approved Editions, aroſe (I think) upon this ground, becauſ it was falſly ſuppoſed by the vulgar, that *Ireland* alone is treated of in ſom following Lines. Notwithſtanding, even ſo alſo thoſe words which follow the word [*bigneſs*] may as well, and ought to refer unto *Britain*, not unto *Ireland*. Moreover alſo, *Tacitus* ſaith expreſly of the *Iriſh* of that Age, [o] *The men in their diſpoſitions and habits do not differ much from* Britain.

[l] *De Subtilitate, lib.* 10.
[m] *Exercitat.* 200.
[n] *Edit. Claudii Salmaſii; Atque ita ſanè Cod. Ms. vet. in Bibliothecâ Cottonianâ.*
[o] *In vitâ Julii Agricolæ.*

But now, that wee may return unto that trimming which was made of Fiſhes teeth; Auxiliaries were wont (as *Cæſar* ſaith) to bee ſupplied out of *Britain*, in almoſt all thoſe wars that the *Gauls* mainteined

againſt the *Romans*. And therefore it muſt bee ſaid, either that the *Britains* were for the moſt part an abject ſavage people, yea and a dull ſlothful Generation (which appear's to bee moſt falſ,) or elſ it muſt bee conceived that the Nation uſed Fiſhing very much, which together with the frequent uſe of Navigation and Commerce, ſhew's that they did enter upon the Sea corporally by Occupation. But if to ſuch a corporal occupation, as this, wee add alſo, that they excluded others from the Sea, ſhutting it up in ſuch a manner, that they reſtrained them at pleaſure from paſſage and entrance, what hinder's why wee may not conclude, that they acquired a manifeſt Dominion of their own, both by an Intentional and Corporal poſſeſsion? But that the Sea was thus ſhut up by them, *Cæſar* himſelf ſeem's to inform us plainly enough. For, when hee, upon his firſt attempt to croſs the Sea into *Britain*, made diligent enquirie among the *Gauls*, touching the Shore and Situation of the ports, and to this end had ſummoned the *Gallick* Merchants together from all Quarters, hee was ſo deceived in his expectation about this matter, that hee was neceſsitated to ſend *C. Voluſenus* before with a long Ship to ſound them, as beeing wholly unknown: For as much as the *Gauls* were utterly ignorant of theſe Shores, becauſ they were prohibited entrance, and ſo excluded from a free uſe of the Sea. For, hee write's expreſly, [P] *not a man of them went thither without leav, beſides Merchants; nor was any thing known even to thoſe Merchants, beſides the Sea Coaſt, and thoſe parts which lay over againſt* * Gaul *or* Gallia. Therefore, according to the uſual Cuſtom, no man, beſides Merchants, could touch upon the Shore, without leav of the *Britains*; nor was it lawful for thoſe

[P] *De Bello Gallico, lib. 4.*

* Now *France.*

thoſe Merchants to make a narrow ſearch or prie into ſuch places aſhore as were convenient or inconvenient for landing, or what Havens were fit to entertain Shipping. For, although hee ſaith they knew the Sea-Coaſt; yet, as *Cæſar* affirm's, they were utterly ignorant, what ports were fit to receiv a number of the greater ſort of Ships. And it ſeem's, Merchants were permitted to viſit the Sea-Coaſts, onely by Coaſting about, and uſing Commerce in the very Sea with the Inhabitants of the Iſland. The old Greek Interpreter of *Cæſar*, ſaith alſo upon the place, *None elſ, beſides Merchants, were eaſily admitted among the Britains*: That is to ſay, neither by Land nor by Sea, whereof they had (as hath been ſhewn) a very frequent uſe, and from which they excluded all Forreigners, except Merchants, as from a part of that Territorie, whereof they were Lords in poſſeſsion. From whence it follow's alſo, that they alſo who were wont to croſs the Sea often out of *Gaul* into *Britain*, to bee train'd up in the learning and diſcipline of the *Druïdes*, could not do it without rendring themſelvs liable to puniſhment for their boldneſs, if leav were not firſt had from the pettie Kings or Lords of the Iſland. From thoſe pettie Kings, I mean, that ruled upon the Sea-Coaſt: For, the *Britains* at that time were not ſubject to the Government of a ſingle Perſon. They were Lords of the Sea, who governed thoſe Cities or Provinces that lay next to the Sea; *Cingetorix*, *Carvilius*, *Taximagulus*, and *Segonax* in *Kent*; others alſo that ruled over the *Regni*, the *Belgæ*, *Durotriges*, *Damnonii*, *Trinobantes*, *Iceni*, *Coritani*, (being the people that inhabited *Suſſex*, *Surrie*, *Hampſhire*, *Dorſetſhire*, *Devon*, *Cornwal*, *Eſſex*, *Norfolk*, *Lincolnſhire*) and the like. For, even *Cæſar*

himſelf ſaith, the inner part of the Iſland was inhabited by ſuch as were ſaid by Tradition to have been born there; but the Sea-Coaſts *by ſuch as had croſs't the Sea thither out of* Belgium, *to make War and gain bootie, who were called all for the moſt part by the names of thoſe Cities from whence they came, and having ſeated themſelvs there by force of Arms, they betook themſelvs to Husbandrie.* But hee according to that little knowledg hee had of a ſmall part of the Iſland, called thoſe onely maritime Cities, or Provinces, which lie South of the River *Thames*; eſpecially *Kent*, the * *Regni*, and the * *Belgæ*. But although the Sea-Coaſts were thus divided at that time into ſeveral Juriſdictions, nevertheleſs it cannot bee doubted, but that they uſed to conſult together in common againſt an Enemie, or to guard the Sea (the defence whereof belonged to all the Princes bordering upon it;) juſt after the ſame manner as they uſed to do upon other occaſions of war againſt forreign Enemies, as you may ſee in [q] *Cæſar*, where the principal adminiſtration of the Government, with the buſineſs of war, was put into the hands of *Caſſivellaunus*, by a common Council of the whole *Britiſh* Nation. Nor is that any prejudice againſt ſuch a Dominion of the *Britains* by Sea, which wee finde in *Cæſar* concerning the *Veneti*, a people of *Gallia*, that were ſeated at the entrance of the River of *Loire*; to wit, that they had a very [r] large command upon the Sea-Coaſt of Weſtern *Gallia*, and that they were better skill'd then any other of their own Countrimen in the Uſe and Art of Navigation, and that in the Sea-fight with *Decius Brutus*, they had Ships made all of Oak, very well built, and whether you conſider their leathern Sails, or their Iron Chains in ſtead of Cordage, or their Maſts, fitted

* The *Regni* were the Inhabitants of *Surrie*, *Suſſex*, and the Sea-Coaſts of *Hampſhire*.

* The *Belgæ*, Inhabitants of *Somerſet*, *Wiltſhire*, and *Hampſhire*.

[q] *De Bello Gallico*, *lib.* 5.

[r] *Cæſar de Bello Gallico*, *lib.* 3. *cap.* 8. & 12.

fitted to bear the brunt of any aſſault whatſoëver; and that CCXX ſail or thereabout in number, went out of the Haven very well manned and provided with all neceſſaries for War, to oppoſe the *Roman* Navie. It is very probable, that the moſt of theſe were Auxiliaries fetched by the *Veneti* out of *Britain*, or how great ſoëver the *Venetan* ſtrength was at Sea, yet that it was not greater then the *Britains*, may bee collected from the ſame Author: For, hee write's expreſly, that Auxilaries were not onely ſent for at that time by the *Veneti* out of *Britain*, but alſo that they had very many Ships wherewith they uſed to ſail into *Britain*: But yet, as it hath been ſhewn out of him alreadie, no man might ſail hand over head into *Britain*, or without leav of the *Britains*. It is not to bee doubted therefore, but that, beſides their Twig or leathern Veſſels, they had a ſtout gallant Navie, which was able even at pleaſure to exclude thoſe Ships of the *Veneti* that were beſt armed. Elſe, how could it bee, that none but Merchants were admitted out of *Gaul* upon the Sea-Coaſt of *Britain*? Moreover, the whole Senate of the *Veneti* having been put to death by *Cæſar*, not a man was found among thoſe who remained alive after *Brutus* his Victorie, that could diſcover ſo much as one Port of *Britain*; as appear's out of the ſame Author. Which how it might bee admitted, I do not at all underſtand, if the ſtrength of thoſe *Veneti* that were wont to ſail thither, had been greater then the *Britiſh*, or if the *Britiſh* had not been much greater then theirs. But the reaſon why at *Cæſar*'s arrival afterwards, no Ship of that kinde was found upon the *Britiſh* Sea or Shore (which [f] *Peter Ramus* wonder's at very much) and why the *Roman* Writers

[f] *De C. Julii Cæſaris militiâ, cap. de prælio Navali.*

mention not any other Ships then such as were made of Twigs, seem's evident: For, the *Veneti* had got all the Shipping together into one place from all parts, to maintein the afore-said fight, as *Cæsar* saith expressly. Therefore, if the *British* Navie were called forth to their assistance, as tis probable it was, then questionless it was all lost before *Cæsar*'s arrival: For, the whole strength and Forces of the *Veneti* perished in that Sea-fight. Moreover also, *Peter Ramus*, speaking of that great tempest, whereby *Cæsar*'s Ships were scatter'd up and down in this Sea with great hazard, saith, *The Sea raised this Tempest, as it were revenging the* British *bounds, and disdaining to bear a new and strange Lord.* As if hee had said, that the Bounds of the *British* Empire were in the very Sea, and the Sea it self angrie, that it should bee tranferr'd into the hands of any other Lord. But as to that which wee finde in a certain [t] *Panegyrist*, touching the time of *Julius Cæsar*; *that* Britain *was not arm'd at that time with any Shipping fit for War by Sea*; it was spoken either in a Rhetorical way onely, and highly to magnifie that Victorie of the Emperor *Constantius Chlorus* (whereby having slain *C. Allectus*, who had invaded *Britain*, hee reduced the Island together with the Sea, as is shewn hereafter) or elf it is to bee taken onely of the very time of *Cæsar*'s arrival. Otherwise, it is expressly contrarie to those reasons here alleged, and grounded upon good Autors; and therefore not to bee admitted for Truth. But after that the Island was reduced under the *Roman* power, doubtless the *Britains* were prohibited from having any Ships of war, that they might bee the better held in obedience. Which is the reason why Writers afterwards make mention of such onely as were made of Twigs.

[t] *In Panegyrico Maximiano dicto; si mihi.*

That

That the Britains *were Lords of the* Northern Sea, *before they were ſubdued by the* Romans. *And that the Sea and the Land* made one entire Bodie *of the* Britiſh Empire.

CHAP. III.

THat the *Britains* were Lords alſo at that time of the Northern, or *Deucalidonian* Sea, is a thing proved by ſufficient Teſtimonie. They called this part of the Sea *Maris ſui ſecretum*, **The ſecret or Cloſet of their Sea.** *Tacitus*, relating the Navigation of *Julius Agricola* into this part, ſaith, *the Britains, as it was underſtood by the Priſoners, were amazed at the ſight of his Navie, as if upon this opening the Cloſet or ſecret part of their Sea, there remained no farther refuge in caſe they were overcom.* And in that ſtout Oration of *Galgacus* the *Caledonian*, wherein hee encouraged his Souldiers to fight, [a] *Now*, ſaith hee, *the Bound of Britain is laid open.* The ſecret part of their Sea or their Sea-Territorie in the North, they called their Bound. Moreover, ſaith the ſame *Galgacus*, *beyond us there is no Land, and not the leaſt ſecuritie at Sea, the* Roman *Navie beeing at hand*; giving them to underſtand, that the Dominion hereof was to bee defended as was the Iſland, as a thing acquired before. Add alſo, that among the Writers of that Age, *vincula dare Oceano*, and to *ſubdue the Britains*, ſignified one and the ſame thing. So that place of *Lucan* is to bee underſtood, where hee reckon's what pompous Shews and Triumphs might have uſher'd

[a] *Tacit. in vitâ Agricolæ.*

uſher'd *Cæſar* into *Rome*, had hee returned onely with Conqueſt over the *Gauls* and the *North*;

[a] *Pharſal.* 3.

[a] ——— [b] *ut vincula Rheno,*
Oceanóque daret! celſos ut Gallia currus
Nobilis, & flavis ſequeretur miſta Britannis.

What Stories had hæ brought! how the vaſt Main,
And Rhine, **hæ by his Conqueſts did reſtrain!**
The noble Gauls **and yellow** Britains **tread**
Behind his loftie Chariot, bæing led!

But for all that, our Sea was not as yet ſubdued by the Romans, *Julius Cæſar* onely ſhewed the Iſland, rather then deliver'd it into the hands of Poſteritie: neither was any part of it reduced under the *Roman* power, before the Emperor *Claudius* his time; nor the Soveraigntie of the Sea transferr'd into the hands of any other. And although in *Auguſtus* his time, *Druſus Germanicus* [c] ſailed through that part of the Sea which lie's betwixt the entrance of the River *Rhine* and *Denmark*, and ſubdued the *Frieſlanders*, nevertheleſs, not any part of the Sea was added by that Victorie to the *Roman* Empire; for, the *Britains* held it all in poſſeſsion, they beeing not yet fully ſubdued. Nor is it unworthie obſervation here, that *C. Caligula*, beeing near *Britain*, and coming out of *Germanie* to the Coaſts on the other ſide of our Sea, *as if* (ſaith [d] *Dio*) *hee intended to make war in* Britain, and having drawn up his Armie, made readie all his ſlings and other warlick Engines, and given the ſignal or word for Battel, no man knowing or imagining what his intent was, hee on a ſudden commanded them to fall a gathering of Cockles, and fill their

[c] *Dio Caſſius, lib.* 54. *Plin. lib.* 2. *cap.* 67. *Sueton. in Claud. cap.* 1.

[d] Adde *Aurel. Victorem*, ut emendatur *ab Andræa Schotio, Obſervat. Hiſtoric. lib.* 3. *cap.* 21.

their Laps and Helmets; Then, saying these Spoils of the Sea belong'd to the Capitol and Mount Palatin, hee vaunted as if hee had subdued the Ocean it self. At last, for a token or Trophie of this mock-victorie, hee rear'd a very lofty Tower hard by, out of which (as if it had been another * *Pharos*) Lights were hung forth by night for the direction of Sea-men in their Courses; the ruins whereof beeing not yet wholly demolished, but for the most part overwhelm'd with water near *Cattwiick*, and very seldom discover'd, it is called by the *Hollanders* that dwell near it, **Britenhuis** and **T' huis te Briten**, that is the *British Hous*, or the *British Tower*. Certain it is out of *Suetonius*, that a Tower was raised by *Caligula* in that place: yea, and it is mainteined by divers learned men, as [e] *Hadrianus Junius* the *Hollander*, [f] *William Camden* our Countriman, and [g] *Richardus Vitus*, that these were the ruins of the same Tower, though others denie it, as *Ortelius*, *Gotzius*, and [h] *Cluverius*: And they make a doubt both about the Original of the name, and also its signification; concerning which wee dispute not. But am extremely mis-taken, if *Caligula*, by this Action of his, did not so much neglect the conquest of *Britain* it self, which hee hoped or at least thought of, as seem to sport himself with the conceit of having found out so compendious a way of Victorie. Hee carried the matter as if hee had had an intent to subdue *Britain*; and supposed those Cockles, which hee called Spoils of the Sea, to bee Tokens of Sea-Dominion, and as a most sure pledg of the *British* Empire.

Moreover, it is upon good ground to bee conceived, that there was one entire Territorie of the

* *Pharos* was a Tower built in the Island *Pharos* by *Cleopatra* Q. of *Egypt*, where lights were hung out to guide Marriners by night.

[e] *In Batavia, cap. 16.*
[f] *In insulis Britann. pag. 852.*
[g] *Histor. lib. 4. not. 56.*
[h] *De Rheni Alveis, cap. 14.* & videsis *Ortelium in Thesaur. Geograph. verb. Brittanni.*

Britiſh Empire, made up of the Land or continent of great *Britain*, with the Iſles lying about it, and the Seas flowing between in their reſpective Channels: which may bee collected, both from that one ſingle name of *Britiſh*, comprehending an entire Bodie of ſuch a kinde of Territorie (as was ſhewn you before) aud alſo from hence, that the very Sea it ſelf is, by *Albategnius* and ſom others, deſcribed by the name of *Britain*, in the ſame manner as the Iſland, when as hee placeth *Thule*, an Iſle of the Sea, in *Britain*. That is to ſay, juſt as *Sicily*, *Corſica*, *Sardinia*, and other Iſles in the *Tyrrhen* Sea, have [i] in Law been reckoned parts of *Italie*, yea, and continent thereto: For, *Sicily* (after that the *Romans* became Lords of the adjoining Sea flowing between) was called [k] *Regio Suburbana*, as if it had been part of the Suburbs of *Rome*; and all theſe together with *Italie* and the Sea it ſelf, made one Bodie or Province; ſo all the *Britiſh* Iſles before mentioned, with great *Britain* and the Seas flowing about it, might well bee termed one Bodie of *Britain* or of the *Britiſh Empire*, foraſmuch as the Seas as well as the Iſles, paſſed alwaies into the Dominion of them that have born Rule within this Nation: From whence perhaps it hapned, that the *Romans* conceived the *Britiſh* Empire conſider'd apart by it ſelf, to bee of ſo great a bigneſs, *that* [l] Britain *did not ſeem to bee comprehended by the Sea, but to comprehend the Sea it ſelf*, as it is expreſs't by that *Panegyriſt*.

[i] *L. 9. ff. tit. de Judiciis & l. 99. ff. tit. de V.S.*

[k] *Cicero Actione 2. in Verrem, & Florus, lib. 3. cap. 19.*

[l] *Panegyric. Maximiano dict.* Si mihi.

That

That the Dominion of the Britiſh *Sea,* followed the Conqueſt of great *Britain it ſelf, under the Emperors* Claudius *and* Domitian.

CHAP. IV.

AFter that the more Southerly part of *Britain* had been brought into ſubjection by the Emperor *Claudius*, and the Iſle of *Wight* taken in by ſurrender, the *Britiſh* Sea, as of neceſsitie following the fate of the Iſland, was together with it annexed to the *Roman* Empire; at leaſt ſo far as it was ſtretched before that part of the Iſle which was ſubdued. Whereupon, a [a] Poët of that Age write's thus to the Emperor *Claudius* touching the Conqueſt of *Britain*,

[a] *Anonymus, Epigr. vet. lib. 2. & in Catalect. vet. Poët. lib. 1. tit. 7.*

Auſoniis nunquam tellus violata triumphis,
Icta tuo, Cæſar, fulmine procubuit.
Oceaníſque tuas ultra ſe reſpicit aras;
Qui finis mundo eſt, non erat Imperio.

That Land where Roman Triumphs ne're appear'd,
Struck by thy lightning, Cæſar, down is hurl'd.
Since thou beyond the Sea haſt Altars rear'd,
Thy Empire's bound is larger then the World.

And then hee goe's on,

Euphrates Ortus, Rhenus recluſerat Arctos,
Oceanus medium venit in Imperium.

Euphrates **Eaſtward did thy Empire bound,**
And on the North the Rhene,
The Ocean in the middle beeing plac't,
Did lie as part between.

Here hee ſaith, that the Sea it ſelf was with *Britain* ſubdued to the *Roman* Empire; as afterward alſo hee ſpeak's more expreſsly.

At nunc Oceanus geminos interluit Orbes:
Pars eſt Imperii, Terminus antè fuit.

But now the Sea betwixt two Worlds doth flow;
The Empir's part, which was its Bound till now.

The *Britiſh* Sea was the Bound of the *Roman* Empire between *France* and *Germanie*. But immediately after the Conqueſt of *Britain* it became a part of the Empire. Hee proceed's again thus;

Oceanus jam terga dedit; nec pervius ulli
Cæſareos faſces, imperiúmque tulit.

The Sea's ſubdu'd; and though it were till now
Open to none, to Cæſar's **Sword doth Bow.**

And then,

Illa procul noſtro ſemota, excluſáque cælo
Alluitur noſtrâ victa Britannis aquâ.

Though conquer'd Britain **far from us do lie**
The Water's ours that on the ſhore flow's by.

Hee

Hee call's the Sea *Our water*, beeing no less conquer'd, than the Island it self. From whence also hee write's, that the Roman Empire was begirt with the Roman Sea, to wit, after *Britain* was subdued,

Quam pater invictis Nereus vallaverat undis.
Which the Sea had fortified with unconquer'd waters.

The Empire of the waters ever followed the Dominion of the Island. And [b] *Seneca*, concerning the same Emperor and this Sea, saith;

[b] *In Octavia, Act.* 1.

——————paruit liber diu
Oceanus, & recepit invitus rates.
En qui Britannis primus imposuit jugum,
Ignota tantis classibus texit freta.
The long unconquer'd Sea obedience gave,
And, though unwilling, did his ships receiv.
Hæ first the Britains **to the yoke brought down,**
And with huge Navies cover'd Seas unknown.

Moreover, the same Author *in Apocolocyntbosi*;

Jussit & ipsum
Nova Romanæ
Jura Securis
Tremere Oceanum.
Hæ gave new Laws unto the Sea, as Lord,
And made it tremble at the Roman **Sword.**

This is plainly to bee understood of the *British* Sea. And *Hegisippus* an old Autor (representing the person of King *Agrippa* speaking to the Emperor *Claudius*) saith, [c] *It was more to have passed over the Sea to the* Britains, *then to have triumphed over the* Britains *themselvs*

[c] *De Excidio Hierosolymit. lib.* 2. *cap.* 9.

selves. But what could they do, when the Elements were once subdued to the Roman *Empire? The Sea taught them to bear the yoke of servitude, after that it self had upon the arrival of the* Roman *Shipping acknowledg'd an unusual subjection.* Hence it was also, (as [d] *Suetonius* saith) that in honor of the Prince, the resemblance of a Ship was fixed upon the top of the imperial Palace. But these particulars relate onely to the more Southerly part of the Sea. *Claudius* never had any Navie sail to the *North*; For, his Conquest reached not so far. But the *Romans* sail'd about the Island first in the daies of *Domitian*, and then it was, that they first discover'd and subdued that remotest part of the Sea. *Tacitus*, in the life of *Agricola* who was Lievtenant in the Province of *Britain*, saith, *the* Roman *Navie sailing then the first time* (under *Domitian*) *about the Island, affirmed this Coast of the remotest* (Caledonian) *Sea to bee the Isle of* Britain, *and hee discover'd and subdued also those Isles called the* Orcades, *which had been unknown till that time.* To the same purpose also speak's *Juvenal*,

[d] *In Claudio, cap.* 17.

[e] *Satyr.* 2.

——— [e] *arma quidem ultra*
Littora Juvernæ promovimus, & modò captas
Orcadas. ———

We have born our Arms beyond the Irish **Main,**
And th' Orcad's Islands which were lately tane.

Lately taken hee saith, that is, in the time of *Domitian*. And therefore it is a manifest error in *Eusebius Hieronymianus*, who saith, *That* Claudius *added the* Orcades *Isles to the* Roman *Empire*: yet hee is followed by *Orosius*, *Cassiodorus*, *Eutropius*, *Bede*, *Nennius*, *Ethelwerdus*, and others. But the contrarie is sufficiently proved

proved out of *Tacitus* alone, a very grave Autor, and one that lived at the ſame time. But as to thoſe paſſages found in [f]*Valerius Flaccus*, [g] *Silius Italicus*, [h] *Statius*, and others, touching the *Caledonians* and *Thule*'s beeing ſubdued before the daies of *Domitian*, they are ſo to bee underſtood onely, that wee are to conceiv either after the manner of the Poëts, that the name of the more Northerly *Britains*, is, by the figure *Synecdoche*, uſed for all whatſoëver, and *Thule* it ſelf for any part of *Britain*; or elſ that the *Caledonians* generally among the *Romans*, ſignified thoſe *Britains* that were but a little removed from the Southern Shore. For, even [i] *Florus* write's, that *Julius Cæſar* purſued the Southern *Britains* into the *Caledonian* Woods: That is, plainly, into the Woods of the more Southerly part of *Britain*: But when *Julius Agricola* had, in *Domitian*'s time, reduced the Iſle by force of Arms both by Sea and Land, and ſailing round about with a Navie, had diſcover'd the *Caledonian Sea* properly ſo named on every ſide, which the *Britains* (as hath been obſerved alreadie) called the *ſecret part or Cloſet of their Sea*, and had taken in the *Orcades*; wee ought to conclude that then that more Northerly Sea alſo was added to the Roman Empire, and ſo that the *Romans* were Lords over all the *Britiſh* Sea, no otherwiſe then of the Iſland: Which alſo is confirmed in plain terms by *Tacitus*, who ſpeaking of *Agricola*'s deſign to war upon the *Caledonians*, ſaith, *hee firſt provided a Fleet, which attended in gallant Equipage to back his Forces; at which time hee proſecuted the war at once both by Sea and Land, and oftentimes in the ſame Camp, the Horſ and Foot and the Sea-Souldiers mingling mirth and companie together, extoll'd every one their own hazards and Adventures; one while they boaſted the heights*

[f] *Argonautic. lib. 1.*
[g] *Punic. lib. 1.*
[h] *Sylvarum, lib. 5. in Protreptico ad Criſpinum, Vettii Bolani proprætoris, ſub Vitellio, Britanniæ filium.*
[i] *Lib. 3. cap. 10.*

heights of Woods and Mountains; another while the dangers of Storms and Tempests; som vaunted of their exploits against the Enemie by Land, others of their Conquests by Sea, making comparisons, souldier-like, with many bravádo's. The Britains *also, as it was understood by the Prisoners, were at their wits end upon the sight of his Navie, as if upon this opening the Closet or secret part of their* Sea, *there remained no farther refuge in case they were overcom.* This is a most clear Testimonie touching the Dominion of the *British* Sea, shewing that the *Britains* and *Caledonians* first, and the *Romans* afterward became Lords thereof. A doubt hath been made by learned men, whether *inlargement of Dominion*, or *Conquest by Sea*, should bee read in that place: But both the Readings plainly point out an acquisition of Dominion. And if you read *inlargement of Dominion by Sea*, it signifie's that the *Caledonian* Sea was then annexed to the other Sea, which together with the more Southerly part of the Isle, had by the Emperor *Claudius* been added to the *Roman Empire*. And that the *British Sea* was thus reduced at that time under the *Roman* power, as a perpetual and inseparable appendant of the Island, was perhaps conceited by [k] *Papinius*, when hee thus bespake *Domitian*, in whose time this Conquest was made of the *Britains*;

[k] *Thebaidos, lib.* 1.

——*maneas hominum contentus habenis*,
Undarum Terræque potens ——

Long maist thou joy in the Command,
Of men, and sway both Sea and Land.

[l] *Jac. Chiffletius, in Epist. Dedicat. ad Libellum, de Portu Iccio.*

Truly, a [l] late Writer also saith, that *Julius Cæsar* did *assert to himself a Dominion over* British *Isle and Sea*. And this hee saith upon very good ground, whilst hee join's the Dominion of both together, as undi-

vided

vided; but upon none at all, when hee aſcribe's onely a Dominion of the Iſle to the ſame *Cæſar*.

Touching the Dominion of the Romans *in the* Britiſh *Sea*, as an appendant of the Iſland, *from the time of* Domitian *to the Emperor* Conſtantius Chlorus, *or* Diocletian.

CHAP. V.

BUt the *Romans* having (as wee told you before) ſubdued both the Iſland and the Sea that roll's about it; as they managed the Government by Preſidents and Lieutenants at Land, ſo by a chief Governor called *Archigubernus*, with a numerous Fleet at Sea. For, by that name was the Commander of the *Britiſh* Navie called (or elſ *Archigubernius*, as it is in the [m] *Florentine* Pandects) which appear's alſo by the Epiſtles of *Javolenus*, a Lawyer; that lived under the Emperors *Adrian* and *Antoninus Pius*. Seius *Saturninus*, [n] ſaith hee, *Archigubernus ex claſſe Britannicâ*, **chief Governor of the** Britiſh **Navie**, *left* Valerius Maximus, *Captain of a three-Oard Gally, his heir or Feofee in truſt by Will; requiring him to yield back the inheritance to his Son* Seius Oceanus, *as ſoon as hee ſhould bee ſeventeen years of Age*. But the *Romans* foreſeeing there would bee a great deal of trouble and but ſmall benefit, in ſubduing and holding the *Caledonian Britains*, they, leaving the North part of the Iſle to the barbarous people, and retiring towards the South, did ſo limit their Land-dominion by rearing up Mounds or Walls before it, that wee muſt of neceſsitie ſuppoſe their Dominion was but ſmall likewiſe by Sea. Thoſe Mounds or Fences are frequently mentioned,

[m] *Antoninus Auguſtin. de nominibus propriis. Pandect. Florentin.*

[n] *F. tit. ad Senatuſconſult. Trebellian. lib. 46.*

in the Hiſtories concerning the Emperors *Adrian*, *Antoninus Pius*, and *Severus*. But by that Fence which *Adrian* made and *Severus* repaired, beeing either a Wall or a Trench drawn through the * North parts, from the Eaſtern to the Weſtern Shore, the Territorie of the *Romans* was confined almoſt within the ſame Limits which had bounded the Conqueſt of *Claudius*. But the other, which parted the Iſland in the middle between the *Eſtuaries* of * *Glotta* and * *Bodotria*, bounded the Roman-Britiſh Empire under *Antoninus Pius*, and after that in the time of *Valentinian*, *Valens*, and divers other Emperors their Succeſſors: So that perhaps the *Romans* afterward had not much more of the Northen Sea in their Dominion, then what waſhed the Borders of theſe Territories. But after *Seius Saturninus*, the afore-mentioned Commander in chief of the *Britiſh* Navie under *Adrian* or *Antoninus Pius*, there is a deep ſilence among Writers touching the Sea-affairs of *Britain*, and almoſt concerning *Britain* it ſelf, till the daies of *Diocletian*. And under *Diocletian*, the *Britiſh* Sea beeing infeſted, all along the Coaſt of *Britanie* and *Belgium*, by the *French* and *Saxons*, care was taken to quiet and ſecure it by ſending forth *C. Carauſius*, a man indeed of mean parentage, ° but expert both in Counſel and Action. And *Geffrie* of *Monmouth* write's, that hee made ſuit for this Government of the Sea, and promiſed *to perform ſo many and ſo great matters for the advantage and inlargement of the Commonweal, more then if the Dominion of* Britain *ſhould bee committed to his charge*. *Eutropius* alſo, ſpeaking of the Infeſters of the *Britiſh* Sea, over which this man was made Commander in chief by the Emperor as Lord thereof, ſo far as hee enjoied the Dominion of *Britain*, ſaith, *that hee oftentimes taking many*

of.

* That is to ſay, *Yorkſhire*, *Lancaſhire*, *Biſhoprick of Durham*, *Weſtmerland*, and *Cumberland*.

* *Cluyd* and *Forth*.

° *Eutropius*, *biſt.9.*

of the barbarous people, and not delivering the prizes to the Liutenants of the Province, nor ſending them to the Emperors, reſerved them to himſelf; therefore when it began to bee ſuſpected, that hee permitted the barbarous people on purpoſe to fall upon thoſe that conveyed the Prizes, that by this means hee might enrich himſelf, a command beeing given by the Emperor Maximianus *to kill him, hee thereupon turn'd Uſurper; and poſſeſſed himſelf of* Britain. At length, having fortified himſelf both by Sea and Land, hee held the joint-Dominion of both for 7 years, as inſeparable; beeing ſlain by his companion *C. Alle-ctus*, who enjoied the ſame 3 years as his Succeſſor. And then hee alſo (after hee was brought to ſo low a paſs by the Emperor *Conſtantius Chlorus*, who had cros't the Sea in perſon on purpoſe to reduce him, that hee knew not what to do, and ſeem'd to bee impriſoned rather then fortified by the Sea, as ſaith the [p] Autor of the *Panegyrick* to *Maximianus*) was at length, by the valor and conduct of the Pretorian prefect *Aſclepiodotus*, overcom and ſlain: And thus both the Iſle and the Sea together was recover'd after ten years time, ſo far as it flow'd before that part which was under the *Roman* Juriſdiction. Nor was it upon any other ground, then this ten years uſurpation in *Britain*, that thoſe Coins were made with the Inſcriptions both of *C. Carauſius* and *C. Allectus* IMP. C. CARAUSIUS P.F. AUG. and IMP. C. ALLECTUS. P. F. AUG. But wee have placed here a counterfeit of that braſs Coin which was made by *Allectus*, that you may obſerv the three-oar'd Gally on the reverſ of it, with the Inſcription VIRTUS AUGUSTA, whereby I

[p] *Panegyrick.* Si mihi *Cæſar.*

conceiv hee gave to underſtand, that this Empire of *Britain* chiefly depended upon the Dominion of the Sea flowing about it. Touching the recovery of *Britain* thus together with the Sea, there is alſo a notable Teſtimonie in that Panegyrick, whereof ſom conceiv *Mamertinus*, others *Eumenius* to bee the Autor. *O how great is this Victorie* (ſaith hee) *and worthie of innumerable Triumphs! whereby* Britain *is recovered, whereby the* French *are utterly deſtroyed, whereby moreover thoſe many Nations that were engaged in the ſame miſchievous conſpiracie, are forced to a neceſsitie of yielding; And laſtly, for our perpetual peace, the* Seas *are ſcour'd and rid of Pirats! Glory then, O unconquerable Cæſar* (hee ſpeak's to *Conſtantius Chlorus*, the afore-named Emperor) *that thou haſt purchaſed another world, and added to the Empire an Element greater then all the Earth, by reſtoring the glorie of the* Roman *power by* Sea. Hee ſaith *a greater Element*, in a rhetorical flouriſh, in ſtead of the *Britiſh* Sea, which hee thus expreſsly affirm's to have been recover'd together with *Britain* it ſelf. It is obſervable alſo, that the *Romans* alwaies ſo ſpake concerning the Empires, of *Britain*, and of the Sea called by its name, as inſeparable. Making mention likewiſe of that peſt, which conſumed onely within the bowels of *Britain*, or of the imminent danger then attending the Roman Empire, *It was bounded* (ſaith hee) *with no mountain or river, which was not ſecured by Guards at the place appointed. But although wee ſhared in your valor and felicitie, yet like a Ship it was expoſed in every place to great terrors, whereſoëver the Seas are ſpred or the winds do blow.* And a little after, ſaith hee, *By this Victorie not onely your* Britain *is redeem'd from vaſſalage, but ſecuritie of traffick reſtored to all Nations, which might have run as great hazard at Sea in time of war, as they gain benefit by peace.* Hee expreſsly call's the

Go-

Government alſo of *Allectus* a *Force of Rebellion by Sea, and it appears,* ſaith hee, *that the very Iſle of* Britain, *which had harbor'd a treaſon of ſo long continuance, is made ſenſible of your Victorie by beeing reſtored unto it ſelf.* Together with the Conqueſt of *Britain* it ſelf, all the ſtrength of Shipping was loſt, which, upon *Allectus* his uſurpation in *Britain*, muſt needs as a perpetual Concomitant of the Iſland, have been of very great uſe againſt the Emperors. But the *Panegyriſt* goe's on; *In other parts indeed ſom things remain which yee may acquire, as you pleaſ or ſee cauſ; but beyond the Sea what was left except onely* Britain? *which you have ſo recover'd, that thoſe Nations alſo which border upon that Iſland, are wholly at your devotion. There is no occaſion to proceed farther, except you deſign (that which is impoſſible in nature) to finde out the bounds of the Sea.* What Nations are thoſe here that border upon *Britain*, except thoſe that lie beyond-Sea, whoſe Shores were conjoined with the Britiſh Empire as it was then accounted, or with the Sea-bounds of the Province of *Britain*, that is, in the Britiſh Sea? As the *French*, and the other adjoining Nations. For, it is not to bee underſtood of thoſe little Iſles which are next to us; their Inhabitants not beeing worthie the repute of Nations. Nor was it agreeable to the Majeſtie of a Panegyrick, to aggrandiſe the Emperor's glorie by ſuch pettie things. But by and by in the following Chapters wee ſhew, that thoſe Nations adjoining to the bounds of *Britain*, or whoſe bounds are united to the bodie of the Britiſh Empire, were thoſe very Inhabitants of the continent of *France*, whoſe Shores are contiguous to the bounds of the Britiſh Sea, which in a civil ſenſ was accounted a part of the Iſle it ſelf, or Territorie united therewith. For, the Panegyriſt proceed's thus to the explanation

of those words : *By the means of thy Victories, O* Constantius, *most victorious Emperor, all those parts that lay waste and desolate about the Countrie of* Amiens, *and* Beauvois, *and* Troies, *and* Langres, *now thrives again by the labor of the rude Husbandman.* In like manner, *Carolus Sigonius*, out of the same Autor, saith, * *By this victorie not onely* Britain *it self was recover'd, but the Coasts of* France *also*, Spain, Italie, *and* Africa, *were freed from the perpetual incursions of Pirats.* That is to say, by the taking in of *Britain*, with the Sea, and the naval strength that was its Guard, not onely the neighboring but even the remotest Provinces bordering on the Sea, were made secure and free, seeing they were all threatned by this war or rather rebellion by Sea, *which might have raged and wandred as wide as the Ocean, and into the streights of the Mediterranean Sea*; which are indeed the very words of the Panegyrick. So that you see, to restore or reduce *Britain*, to recover it, to suppress a Sea-Rebellion here, and to scoure this Sea, were esteemed under such a consideration, that, the one beeing don, the other followed, by reason of the inseperable Dominion of the *British* Isle and Sea together. And when *Britain* was lost, the Naval Forces of the *Romans*, whereby the Sea was guarded, were lost in like manner. But when it was reduced, even these also were reduced together with the Sea.

* *De occidentali imperio, lib.* 1.

Touching

Touching the Dominion of the Southern *and* Eaſtern *Sea, as an* Appendant of the Britiſh Empire, *from the time of* Conſtantine the Great till the *Romans* quitted the Iſland. *That it was all under the Command of the* Count of the *Saxon* Shore throughout *Britain. Alſo concerning the* Britiſh Navie, *under the* Romans.

CHAP. VI.

IN the following Age, the manner of Adminiſtration of Government beeing changed about the time of *Conſtantine*; as the *Pretorian Prefect of Gallia* had a Deputie under him to order the Civil affairs of *Britain*; and as the *Magiſter Militum occidentis*; Hee that commanded the Militia of the Weſt had an Officer under him called *Comes Britanniarum*, **Count of Britain**; and *Dux Britanniarum*, **Duke of Britain**, who commanded Forces for defence of the Midland parts of the Iſle: So the ſaid *Magiſter Militum* was wont at his own diſcretion to appoint ſom perſon of eminent dignitie to bee his Subſtitute, by the Title of [a] *Count of the* Saxon *Shore throughout Britain*, with Command over the Garriſons and Fortifications placed upon the South and Eaſtern Shore of *Britain*, and over all that Sea which flow's between *France*, *Spain*, *Holland*, *Denmark*, and *great Britain*, as over a part or bound, not bounding, but bounded by the *Britiſh* Empire, no otherwiſe then as

[a] *Notitia Dignitatum Imperii Occidentis.*

as a distinct Province of the same Empire; as most eminently appear's by the very Title of the Dignitie or Command. For, the *Duke of* Britain, *and Count of Britain*, were as the *Count of Tingitania*, the *Count of Spain*, and very many others of the like kinde, denominated from those Lands and Countries over which they were put in Command. And such of these Dignities or Commands as were for defence of any Frontiers or Borders, took name ever from the Borders. Upon which account it is, that among the Imperial Offices or Commands wee meet with *Comes limitis Ægypti*, **the Count of the** Egyptian **Border**, [b] the *Prefect of Euphrates*, the [c] *Prefect of the Bank of Danubius*, and *the* [d] *Count of Danubius*, and *those* [e] *to whom the Charge and Defence of the river Rhine was committed*: For these Rivers were Bounds or Limits of the Roman Empire. And it is the opinion of [f] learned men upon good ground, that the Counts or Dukes of *Rhine* are meant by those words concerning the River of *Rhine*. But as the Northern and Eastern Bounds of the *Roman* Empire were denoted by the names of the Rivers *Danubius*, *Rhine*, and *Euphrates*, so clearly also the name or Limit of the *Saxon* Shore pointed out the Eastern and more Southerly bound of the *British* Empire, or that which was reduced by the name of *British*, as an entire bodie, under the Roman power. So that whatsoêver reached as far as that Limit, lay properly under the command of the *Count of the* Saxon *Shore in* Britain, as Governor of the Sea-Territorie, as an appendant of the Isle. But that Territorie or Province subject to this particular *Dignitie* or Command, reached through the very *British* Sea, from the Shore of *Britain* to the Shores on the other side

of

[b] *Notitiâ Dignit. Orient.*
[c] *Inscript. Gruter. fol.* 1090.21.
Ibid fol. 490.
[d] *Sidonius Apollinaris in Panegyric. Anthemio*
[e] *L. 9. C. Theodos. lib.* 7. *tit.* 1.
[f] *Marquard. Freher. Orig. Palatin. part.* 1. *cap.* 3.

of the Sea, or thoſe which lie over againſt our Iſle of *Britain*, in *France*, the *Low Countries*, *Holland*, and *Denmark*; ſo that what Sea or Iſlands ſoever lay between near the *Britiſh* Shore, appertained all to the Command of the aforeſaid *Count*, as to the charge of an Admiral belonging to a Province or Territorie.

But that thoſe oppoſit Shores were all known at that time by the name of the *Saxon* Shore, is evident both out of *Ptolomie*, *Marcianus Heracleotes*, *Zoſimus*, and the like, and alſo out of the Regiſter or Breviarie of the Dignities of both the Empires. For, [g] *Ptolomie* and [h] *Marcianus* place the *Saxons* at the entrance of the River *Elbe* which lie's near *Cimbrica Cherſoneſus* or the Weſt-part of the Kingdom of *Denmark*, as alſo in *Cimbrica Cherſoneſus* it ſelf. And that Shore took the name of *Saxon* from their firſt and moſt antient habitations. But beeing the moſt eminent people of *Germanie*, they by driving out their Neighbors enlarged their habitations Southward, all along the *Batavian*, *Belgick*, and *French* Shore. From whence [i] *Zoſimus* write's, that about *Conſtantine*'s time, they poſſeſſed themſelvs of the *Hollander*'s Countrie at the entrance of *Rhine*. And becauſ they ſeated themſelvs near theſe Shores, and by their frequent excurſions thence infeſted both Sea and Land all along the Sea-Coaſt of *France*, it was called not onely the Shore of thoſe *Saxons*, or the Eaſtern bound of the *Britiſh* Empire; but alſo that *Belgick* and the whole *Gallicane* Shore, which lie's over againſt our Iſle of *Britain*, was term'd the *Saxon Shore*, and the *Saxon limit* or Border. Touching the Shore of *Denmark* and *Holland*, where they had more inlarged their habitations, the point is manifeſt by

[g] *Geograph. lib. 2.*

[h] *In Periplo.*

[i] *Hiſtor. lib 3.*

what wee have alreadie mentioned. And the Regiſter or Breviarie of the Imperial Dignities ſpeak's expreſsly in like manner touching the *Belgick* and *Gallican* Shores. For, in it wee finde, that under the charge or command of the Duke of the Tract of * *Aremorica* (which reacheth from the *Weſtern Gallia*, or from the mouth of the River of *Loire* to the entrance of *Seine*) there was *a Tribune of the firſt new band of Souldiers of* Armonica *and* Grammona *upon the* Saxon *Shore*. There, the *French* Shore lying over againſt our South part of *Britain*, is called in plain terms the *Saxon Shore*. For, in the ſame *Breviarie*, under the Command of the Duke of that part of *Belgica ſecunda*, (which reacheth from the entrance of the River *Seine* to that of the River *Maze*, and comprehend's *Flanders*) wee finde *Equites Dalmatas Marcis in littore Saxonico*, Dalmatian **Horſmen at the Borders on the** Saxon **Shore.** And the *Saxon Shore* is evidently ſet forth in the ſignal Ornaments of the ſame Duke. So all that which reacheth from *Cimbrica Cherſoneſus* or the Weſt-part of *Denmark* to the *Weſtern Gallia*, is expreſsly call'd in the Breviarie the *Saxon Shore*, which hapned not onely from the frequent depredations made then upon that Sea-Coaſt by the *Saxons*, but by their Excurſions and often acquiring of habitations all along that Shore. So that nothing could have been more plainly ſpoken, to ſhew that the whole Sea lying between, was poſſeſſed at that time, as an appendant of the Iſland, by the Lords of the South-part of the Iſle; except a man ſhould ſuppoſe, that thoſe places which are extended from the proper habitation of a *Count*, *Duke*, or any other Officer in Command for defence of Borders, unto thoſe Borders from whence hee

* *Bretaign* in *France*.

hee was denominated or entitled, were not ſubject either to his Juriſdiction or to the Dominion of thoſe that beſtowed the Command upon him. Which truly is abſurd, and wholly different from the uſual adminiſtration of the *Roman* Empire. But that *Count of the* Saxon Shore in *Britain*, had his proper places of abode onely in *Britain*; and, under the *Romans*, that Magiſtrate belonged onely to *Britain*. Nor were thoſe *Saxons* any other then Enemies. And their Shore, ſo far as they poſſeſſed it, was an Enemies Countrie. Moreover, this *Count* had Houſes, at his own pleaſure, in either of thoſe Garriſons, Towns, or nine Maritim Cities, which beeing ſeated upon the Shores of *Suſſex*, *Kent*, *Eſſex*, and *Norfolk*, hee alwaies had them painted out near the Sea, and added to his grand Commiſsion, for the ſignal Ornaments of his Office. The names of theſe Cities were *Othona*, *Dubris*, *Lemmanis*, *Branodunum*, *Gariannum*, *Regulbis*, *Rittupæ*, *Anderidos* (or *Anderida*) and *Portus Adurni*. Beſides, both the *Deputie of Britain*, and the *Duke*, and *Count of Britain*, had their ſignal Ornaments given in like manner with their Commands. This had a pourtraicture of the Iſle it ſelf, drawn in the form of a Caſtle fortified in the Sea. The *Duke* had certain Midland Towns. And the *Deputie* thoſe five Provinces into which the Iſle was divided by the *Romans*; as you may ſee in the *Breviarie of Dignities*. Where the afore-mentioned Arms of the *Count of the Saxon Shore* are repreſented after this manner;

to wit, the very ſame that was wont to bee drawn in his Commiſsion. But as to what concern's thoſe Maritim Cities or Towns in theſe Ornaments; if wee may believ[k] ſuch as are well verſt in the affairs of *Britain*, *Othona* was ſeated upon the Shore of the *Trinobantes* which lie's before **Dengy** hundred in the

[k] *Guil. Camden in Suſſexia, Cantio, Eſſexia, Norfolcia.*

the Countie of *Essex*. *Dubris* is the same with **Dover**. *Lemannis* was placed about **Hith** on the *Kentish* Shore. *Branodunum* was no other but **Brancheſter** upon the Shore of *Norfolk* near the wathes between that and *Lincolnshire*. *Garianum* was either **Gernemutha**, or som place near it. *Regulbium* or *Regulbis* was situate upon the Northen Coast of *Kent*, beeing called now **Reculver**. *Rittupis* or *Rhutupiæ* was seated in *Kent* at the entrance of the River *Wantsum*; Perhaps it was the same with **Richborow**. *Anderidos* stood upon the Bank of the River *Rothermouth*, and is now called **Newenden**. And lastly, *Portus Adurni* became a little Village, now called **Aldrington**, near **Shoreham** upon the Coast of *Sussex*. But the very Form and Fashion of the Book pictured in those Ornaments, which in the Manuscript Copies of the *Breviarie* (as *Pancirollus* saith) is of a purple or yellowish color, did signifie the Instructions of the Emperor. And if wee may believ *Pancirollus*, the Letters inscribed upon it signified in the Notaries language, *Felix Liber injunctus Notariis laterculi, continens Mandata ordine Principis*, seu *Primicerii*, who was the principal Notarie. The very same Inscription is somtimes found in the Ornaments of other Governors. But who they were which the *Count of the* Saxon Shore *throughout Britain* had under his own Command, for defence of the afore-mentioned Dominion by Sea, and what manner of Officers, is expressed in the *Breviarie* after this manner;

1 *Ad Notitiam Dignatum occidentis, cap. 72.*

Sub dispositione viri spectabilis, Comitis litoris Saxonici, per Britanniam.

Præpositus numeri Fortensium, Othonæ.
Præpositus Militum Tangricanorum, Dubris.

Præpositus numeri Turnacensium, Lemannis.
Præpositus equitum Dalmatarum Branodunensis, Branoduno.
Præpositus equitum Stablesiani Garrianensis, Gariannono.
Tribunus cohortis primæ Vetasiorum, Regulbio.
Præpositus Legionis II *Aug.* Rutupis.
Præpositus numeri Abuleorum, Anderidæ.
Præpositus numeri Exploratorum portu Adurni.

Officium autem habet idem Vir Spectabilis Comes, hoc modo.

Principem ex officio Magistri Præsentalium à parte peditum.
Numerarios duos, ut suprà, ex officio supradicto.
Cornicularium;
Adjutorem;
Subadjuvam;
Regendarium;
Exceptores;
Singulares, & reliquos Officiales.

The names both of the Souldiers and Officers are to bee found in *Pancirollus*; this beeing no place for a Commentarie, to explain them to such Readers as are not well vers't in the Storie of the *Roman* Empire in its declining state. But I shall give an account of their numbers, as it is cast up by *Pancirollus*, that you may the better know what those Garrisons were which were imploied at that time, to guard this Sea-appendant of the British Empire. [m] *Under this Count* (saith hee) *was one Legion or Regiment perhaps of a thousand Foot, and six Companies; perhaps one thousand two hundred, and two Troops of Horse almost two hundred. The whole amount's to almost two thousand two hundred Foot*

[m] *Ad notitiam dignit. Occid. cap.* 72.

Foot, and two hundred Horſ. For, [n] Conſtantinus Porphyrogenneta *write's, that at this time there was a Regiment of a thouſand Foot.* So hee. Now, the Ships and Souldiers belonging to the Navie are not mentioned in the *Breviarie,* at leaſt not by this name. But as there were Troops of Horſ diſpoſed againſt the Landings of Enemies (in caſe any ſhould happen;) ſo there is no reaſon to doubt, but that the Souldiers belonging to the Navie were liſted in the Companies and Legion. After which manner likewiſe *Flavius Vegetius* ſaith, *that* [o] *at Miſenus* (now called *Monte Miſeno*) *and at Ravenna, ſeveral of the* Roman *Legions continued with the Fleets, that they might not bee at too great a diſtance from guarding the Citie, and that they might as occaſion required, bee tranſported in Shipping to all parts of the world.* Hee reckon's thoſe Souldiers belonging to the Navie, among the Regiments of Foot, or under their Name. But in the mean time it is to bee obſerved, that the [p] moſt diligent Inquirers into the *Roman* affairs, whilſt they Treat of their Fleets, do beſides that of *Ravenna* and [q] *Miſeno* (of which this latter lay neareſt to *France, Spain, Barbarie, Africk, Egypt, Sardinia,* and *Sicily*; the other was wont to ſail in a direct courſ to *Epirus, Macedonia, Achaia, Propontis, Pontus,* the *Eaſt, Crete,* and *Cyprus*; which are *Vegetius* his own words; both of them beeing firſt inſtituted and appointed there by [r] *Auguſtus Cæſar,* to guard the Provinces bordering upon the Sea, with the Sea it ſelf, and called alſo *Pretorian,* for the more reputation) they do (I ſay) for the moſt part add onely two more that were ſet forth to Sea, but of leſs account. The one was placed at *Friuli,* in that part of *France* called [s] *Gallia Narbonenſis*, The other in the very

[n] *Lib. de Thematibus.*

[o] *De Re militari, lib. 4. cap. 21.*

[p] *Lipſius de Magnitudine Romanâ, lib. 11. cap. 5. ſed & vide Jul. Cæſ. Bullinger. de Imperio Romano, lib. 6. cap. 6.*

[q] *De quibus item Tacitus lib. 4. Annal.*

[r] *Suetonius in Auguſto, cap. 49.*

[s] *Tacit. Annal. 4. Strabo, lib. 4.*

very [t] *Euxin* Sea. And it is for the moſt part agreed, that the *Romans* had onely four conſtant or more eminent Fleets at Sea. They do indeed rightly add alſo ſom other conſtant Fleets which belonged to Rivers, as that of the *Rhine*; and *Danubius*, of which ſort alſo may bee reckoned that belonging to *Myſia* called *Mæſica*, and another alſo belonging to *Pannonia* or *Hungarie* called *Pannonica*, and others of the like nature. But among theſe there were certain Barks or nimble Veſſels call [u] *Luſoriæ* or *Luſuriæ* (in *Engliſh* wee may call them *Flie-boats*) wherein they ſcouted out as far as the remoteſt Banks and the Caſtles built upon them, to guard the Bounds of the Empire. And under this notion the name of theſe *Luſoriæ*, was reſtored by [x] *Claudius Salmaſius*, according to two Laws in the [y] Code of *Juſtinian* which were before ſufficiently corrupted. And as in Rivers they for the moſt part uſed theſe *Luſoriæ* or leſſer Veſſels; ſo in the Sea they made uſe of Pinnaces, the leaſt whereof had ſingle Ranges of Ores; thoſe that were a little bigger, double Ranges; and thoſe of a middle ſize or proportion had three or four, and ſomtimes five, as wee are told by *Vegetius*. But now, notwithſtanding that thoſe diligent Inquirers into the defences and Fortifications of all ſorts belonging to the old Roman Empire, are wont, when they mention any Navie of *Britain*, to ſpeak ſlightly or in terms obſcure enough; this nevertheleſs is moſt certain, that there was among the ſtanding Guards of the *Romans*, not onely a particular Fleet of Pinnaces or light Veſſels belonging to *Britain*, wherewith they guarded this Sea whereof wee ſpeak, as an appendant of the Iſle of *great Britain*; but alſo that they had not any other Navie in the outer Sea, or any

[t] *Joſeph. Haloſ. lib. 2. cap. 26.*

[u] *Cod. Theodoſ. 7. tit. 17. de Luſoriis Danubii.*

[x] *L. 4. C. de Offic. Milit. Judic. & l. 4. C. de Offic. Magiſtri Officiorum.*

[y] *In notis ad Flavium vopiſcum, pag. 475.*

any Shipping at all upon the Sea-Coaſts of *Spain* or *France*, without the Mediterranean Sea. At leaſt, it is no where mentioned by antient Writers. Which is no ſlight Teſtimonie, that the Sea and the Iſle together made up one entire Bodie of the *Britiſh* Empire, as it was then devolved unto the *Romans*, and alſo that ſuch a Cuſtom was at that time in force upon the Sea, ſo far as it belong'd to *Britain*, that the like could no where bee found at leaſt in the more Weſtern parts, there beeing no other Sea-Province among them. There is (beſides that ordinarie inſtance [z] alleged before out of the [a] *Digeſts* of the Civil Law, concerning *Seius Saturninus* Commander in chief of the *Britiſh* Navie under *Antoninus* or *Adrian* the Emperor) expreſs mention made alſo by [b] *Tacitus* of this *Britiſh* Navie, where ſpeaking of the affairs of *Cerealis* and *Civilis* under the Emperor *Veſpaſian*, *Another fear*, ſaith hee, *had poſſeſſed the minde of* Civilis, *leſt the fourteenth Legion beeing aſſiſted by the Navie of* Britain, *ſhould infeſt the* * Batavians *upon the Sea-Coaſt.* And therefore that learned man *Lipſius* had no ground to conceiv that this was part of that Fleet of ſmall Veſſels called *Luſoriæ*, whereby the River *Rhine* was guarded; to wit, that part of it which guarded the entrance of the River near that place called the *Britiſh Tower*, whereof wee ſpake before in the third chapter of this book. For, it was even the whole Navie of *Britain*, and that which belonged wholly to the Sea, not having any relation at all to the Rivers. And that it belong'd to the Sea, appear's not onely by the thing it ſelf, but alſo by what hath been alreadie ſpoken, and what ſhall bee ſaid in the next chapter touching the *Count of the Saxon Shore*; ſo far at leaſt as wee may

[z] *Chap.* V.
[a] *L.* 46. *ff. tit. ad Senatus conſul. Trebellianic.*

[b] *Hiſtoriar. lib.* 4.

* *Hollanders.*

bee able to judg of the former (as wee often uſe to do) by the latter courſ that was taken in ordering affairs, and diſpoſing of Guards and Garriſons. But that this was a compleat Navie, and had a peculiar Prefect or Commander in chief over it, is teſtified by a fragment of an antient Inſcription in a Palace at *Rome*, called *Palatium Capranicenſe*, [c] wherewith truly that name of Prefect of the *Britiſh* Navie was utterly loſt. Yet it appear's thereby that ſuch a Prefecture or Command there was, not of the leaſt note among thoſe antient dignities of the *Romans*, and that it was committed to the ſame man that was likewiſe *Prefect* of the two Navies called *Claſsis Mœſica* and *Pannonica*; as alſo Proconſul and Preſident of the *Alps*, Sub-Prefect of the *Pretorian* Navie, and Tribune of the ſixteenth Legion. The form of the Inſcription ſtand's thus.

[c] *Janus Gruterus*, p. 493.

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PRAEF. CLASS. BRIT. ET MOESIC.
ET PANNONIC. PROC. ET PRAESIDI
ALPIUM SUBPRAEF. CLASS.
PRAET. TRIB. LEG. XVI.
FL. ECPREPUSA.

Moreover, it is no light Argument to prove, that in thoſe times there was frequent uſe of that Navie in guarding the *Britiſh* Sea, as a part of the Province of *Britain* (as hath been alreadie ſaid;) and that upon this ground, becauſ the very name of thoſe ſcouting Skiphs which were joined with the bigger ſort of Pinnaces or light Veſſels upon the Guard, was borrowed

borrowed by the *Romans* in their writings from the *Britains*, after the same manner as they took the name of those Boats called *Copuli* from the *Germans*, which [d] were likewise of that sort of Vessels called *Lusoriæ*, imploied in guarding the *Rhine*. The *Romans* observed that the *Britains* called those Vessels *Pyctas*. *Flavius Vegetius*, who in the Reign of the two *Valentinians*, composed his Books concerning the affairs of the *Roman Militia*, out of the Commentaries of *Cato*, *Celsus*, *Trajan*, and *Hadrian*, saith, [e] *scouting Skiphs are joined with the bigger sort of Pinnaces, that had about twentie Rowers in all; which skiphs the Britains call Pyctas. In these they use to make assaults and inrodes upon a sudden, and somtimes intercept the provision and supplies of their Enemies Shipping, and by diligent watchfulness discover their approaches or counsels. And that their Scouts may not bee discover'd by their whiteness, they die the Sails and Tackling with a blewish color, like the waves of the Sea. They besmear them also with wax as they use to trim their Ships. Yea, and the Seaman or Souldiers put on clothes of the same blewish color, so that they are the less discernable as they scout about, not onely by night, but also by day.* So far hee. And the printed Books do generally render these Vessels here *Pictas* or *Pyctas*. But som Manuscripts, that have been used by *Godescalcus Stewechius*, call them *Picatas*; and also wee read *Picatas* in two Manuscripts belonging to the King's Librarie at S[t] *James*, as I was inform'd by that learned man and my very good friend *Patrick Young*; from whence it is, that, in the old *French* translations of *Vegetius*, it is rendred one while *Picaces*, another *Pigaces*. But saith *Stewechius* upon the afore-mentioned place, *It seem's more probable to mee that they were called* Pincas, Pinks; *For, even at this very day there is such a kinde of*

[d] Videsis *Lipsi. ad Tacit. Hist. lib. 5. num. 36. & de Magnitud. Romanâ, lib. 1. cap. 5.*

[e] *De re Militari, lib. 4. cap. 37.*

Veſſel known both in Britain *and* Holland. *And the ordinarie name is* **Een Pincke.** But howſoêver the caſe hath ſtood, here wee ſee in *Vegetius*, that the ſcouting Veſſels were emploied together with the Pinnaces, and their name ſo obſerved according to the *Britiſh* language of that Age, that there appear's not the leaſt ground to doubt, but that *Vegetius* was of opinion alſo, that thoſe Veſſels were either conſtantly or very frequently in uſe among the *Britains*, and in the Sea-Province of *Britain*. So, it is acknowledged by every man, that thoſe words *Geſum* **a Javelin**, *Trimarcia* **Three Horſes**, *Eſſedum* **a Chariot**, *Petoritum* **a Wagon of four Wheels**, *Braccæ* **Breeches**, and others of that kinde, borrowed either from the *Gauls* or *Britains*, and received by the *Romans* into their own Language, do ſufficiently ſet forth the uſe of thoſe things which they ſignifie either in *Gaul* or *Britain*. Moreover alſo, *Vegetius* in this place ſo join's together the manner of guarding the Sea and the ſubtile ſleights they made uſe of for that purpoſe, that there is no reaſon at all why wee ſhould not believ, that they were then uſed by the *Britiſh* Souldiers which ſerved at Sea, or who had command over the ſmall Veſſels called *Pyctæ* or *Picatæ* in thoſe Guards by Sea.

An

An Examination of the Opinion of ſom learned men, who would have the Saxon Shore, *from whence that* Count *or Commander of the Sea* throughout Britain *had his Title, to bee the Britiſh Shore* on this ſide of the Sea; *which is plainly proved to bee falſ.*

CHAP. VII.

BUt truly certain learned men, either treating (as it often fall's out) of ſom other ſubject, or elſ beeing too careleſs in conſidering the matter, do otherwiſe interpret that Dignitie or Command of the *Count of the Saxon Shore throughout Britain*; And in ſuch a manner, that if their determination were to bee admitted, the proof or teſtimonie before-alleged touching a Joint-Dominion of the Sea together with the Iſle, in that Command under the *Romans*, would plainly fall to the Ground. Theſe men are of two different Opinions. Som would have the Shore of *Britain* it ſelf or that which is on this ſide the Sea, to bee called onely the *Saxon*, in the naming of this Dignitie or Command: Others would have it to bee both the Shore of *Britain*, and all that Shore alſo which fetche's a compaſs like a half Moon from the Weſtern part of *Denmark* as far as the Weſt of *France*, and lie's over againſt *Britain*. But truly, they are both extremely miſtaken.

The Autor of the former opinion is *Guidus* [a] *Panci-rollus*, who write's that the Shore or Limit within

[a] *Ad Notitiam Dignit. Occid. cap. 72.*

the Island was so denominated from those *Saxons*, who were called in hither by *Vortigern* King of the South part of *Britain*, to his assistance. *The* Saxons (saith hee) *possessed part of the Island, from whence a limit or bound that was rear'd over against them by one that was made Count, was called* Saxon. Then which nothing could have been more ignorantly spoken, if you reflect either upon the thing it self, or the course of times. For, omitting this, that in the *Breviarie of Dignities* it self no mention is made at all of a *Saxon* Bound or Limit, but of a Shore (notwithstanding that *Pancirollus* in the Inscription of his Commentarie entitle's the Commander that wee speak of, *Count of the* Saxon *Limit throughout* Britain) the Breviarie was written in the Reign of *Theodosius* the yonger, or in the year CCCCX, as learned men do commonly agree. That is to say, of that time, the frame of the whole Government of the Empire, both in the East and West, having been over-grown long before, was with very great diligence digested as it were into one entire Book of Offices and Dignities. But the *Saxons*, as most of the Antients tell us, came first into *Britain* in the year of our Lord CCCCXLIX. But suppose, what upon better consideration may perhaps bee allowed, that their arrival ought to bee reckoned in the [b] year CCCCXXVIII. that is in the XXI year of the Reign of *Theodosius* the yonger, yet in the mean time this is most certain (which is here in the first place to bee observed) that *Britain* was utterly abandoned by the *Roman* Governors, before they were called in. Doubtless they were as [c] *Gildas* write's brought in by King *Vortigern* to *drive back the Northern Nations*, the *Picts*, and *Scots*; not the *Romans*, who had bidden farwel to the Island. Neither

[b] *Apud Guil. Camden. in Brit. pag. 95. & vide Tho. Lidiat in Temp. Emendat. pag. 238.*

[c] *In Epist. de Excidio Britanniæ.*

ther had the *Romans* or their Dukes or Counts any thing at all to do within the Iſle with the *Saxons*. So that it muſt needs bee groſs ignorance in Hiſtories, and in the Calculation of time, to ſet down any *Saxon Limit* or *Saxon Shore* in the Iſland it ſelf, whilſt the Roman Empire flouriſhed, or had any kinde of Autoritie in this Countrie. Nothing therefore is more evident then that the Shore lying on the other ſide of the Sea over againſt the South and Eaſtern Coaſt of *Britain*, as wee deſcribed it before, was called the *Saxon* in that Dignitie or Command. Moreover alſo that *Count of the* Saxon Shore *throughout* Britain was far more antient, and known by an addition thereto of the *Sea-Coaſt* or of that Sea which was comprehended in the Roman juriſdiction throughout *Britain*, or in the bodie of the *Britiſh* Province. For, *Nectaridius* was inveſted with this Dignitie in the time of *Valentinian* the firſt, or about the year of our Lord CCCLXX; as is teſtified by [d] *Ammianus Marcellinus*, where hee ſaith, information was given by a Meſſenger, *that* Britain *was reduced to an extreme low condition by a barbarous Conſpiracie; and that* Nectaridius *Count of the Sea-Coaſt, and* Buchobaudes *the Duke were ſurprized unawares by the craft of the Enemy*. Nor is any difference to bee imagined between the Dignitie of the *Count of the Saxon Shore*, in this ſenſ, *throughout* Britain, and that which the fore-named *C. Carauſius* received at *Boloigne* in *France*, to ſcour the Sea along the Coaſt of * *Belgica* and *Bretaigne*, which (as *Eutropius* and *Oroſius* ſay) *was infeſted by the* French *and Saxons*. For, that even hee alſo had places of ſtrength and Manſion-houſes belonging to his Government in *Britain*, appear's ſufficiently upon this ground; that when *Maximianus* had given order to put

[d] *Hiſtor. lib.* 27.

* *Gaul* was by the *Romans* divided into four parts; of which *Belgica* was one, conteining *Picardie* part of *Champagne*, *Burgundy*, with ſo much of *Germanie* and the *Netherlands* as lie's on this ſide the *Rhine*,

put him to death, hee immediately uſurp't in *Britain*, and reigned after for the ſpace of ſeven years. So, the Governor here or *Count of the Sea-Coaſt*, and the *Count of the Saxon Shore*, beeing ever accounted the ſame, held the ſole Government of *Britain* and the Sea belonging thereto. To whom alſo wee may add, as differing onely in name, not really, the Prefect or Admiral of the *Britiſh* Navie, under the *Romans*, mentioned in the former chapter. Wee confeſs indeed, that the Duke of *Belgica ſecunda* and the Duke of the Countrie of *Aremorica* before-mentioned, was by the verie nature of his place to afford ſupplies for the guarding the Sea and this Shore beyond Sea: For, they alſo, as hath been obſerved, had Garriſons ſeated upon this *Saxon Shore*. But it is chiefly to bee obſerved here, that theſe beyond-Sea-Dukes were according to the nature of their Dignitie or Office to take care, not ſo much of the Shore or Sea, as the Continent; and that from thence, as you ſee, they took their names. This from the Tract of [e] *Aremorica* and * *Ebroicæ*; which beeing extended through five Provinces, *Aquitania prima* and *ſecunda*, *Senonia*, *Lugdunenſis ſecunda* and *Tertia* (which comprehend's the leſſer *Britain* and *Normandie*) conteined almoſt all that which was commonly called by the name of *Gallia*; But the other had its name from *Belgica ſecunda*. Nor was there one Count or Duke of the Midland Countrie, and another of the Shore or Sea-Coaſt in *Gaul*. But in *Britain*, the Counts or Dukes of the midland parts and the *Count of the Sea-Coaſt or Saxon Shore*, had diſtinct charges, diſtinct Forces, and the ſignal Ornaments of their Offices wholly diſtinct. Juſt as if the *Roman* Emperors would have it ſignified by this very thing, that as the Sea it ſelf

[e] Præter *Notitiam & Pancirollum*, vide *Joſeph. Scaligerum ad Auſonium, lib. 2. cap. 6.*

* *Ebroicæ* now called *Eureux.*

ſelf did by particular Right alwaies belong unto the Empire of the Iſland, ſo the Sea-affairs and their protection to the *Britiſh* Command and Juriſdiction of the *Saxon Shore* or that beyond-Sea; but that both the Dukes of the Continent or main Land of *Gaul* lying right before it, were bound ſo to ſend relief, as occaſion ſhould require, againſt the *Saxon* Invaſions, that in the mean time the ſole care of the ſea it ſelf, as a particular Province given in charge, lay upon him that was made *Count of the* Saxon ſhore *throughout Britain.* And if any Duke or Count either of *Aremorica* or *Belgica ſecunda*, was called by the name of Duke or *Count of the Saxon ſhore* (as [e] ſom would have) it was don doutleſs upon this ground, becauſ the *Saxon ſhore*, lying over againſt us on the other ſide of the ſea, did bound their Land-Government; as it did alſo the Sea-Juriſdiction of the aforeſaid *Count throughout* Britain.

[f] *Joſ. Scaliger. in lect. Auſon. lib. 2. cap. 6. & Guil. Camden. in Brit. pag. 96.*

Nor indeed is that other Opinion any more to bee admitted, which ſaith; That our *Britiſh* ſhore was at that time called *Saxon*, as well as that which lie's over againſt it or beyond-ſea: And ſo that the name in the Dignitie or Office of the aforeſaid Count, doth ſignifie the ſhore on this ſide the ſea. Of this Opinion is [f] *Abrahamus Ortelius*, *I conceiv*, ſaith hee, *that the* Saxon ſhore, *in the Breviarie, doth ſignifie the Eaſtern part of* Kent, *ſeeing that* Dubris, Rutupis, *and other Towns of* Kent *are deſcribed therein.* Hee hath indeed very eminent men for his Followers, [g] *William Camden*, [h] *Paulus Merula*, [i] *Philippus Cluverius*, and ſom others. And they add this for a reaſon; becauſ both ſhores, as well this on this ſide the ſea, as that on the other ſide, took name from the *Saxons* that uſed Piracie in very great numbers upon this ſea: And therefore that

[f] *In Theſaur. Geograph.*

[g] *In* Kent, *pag. 230.*
[h] *Coſmograph. part. 2. lib. 3. cap. 31.*
[i] *German. Antiqua, lib. 1. cap. 18.*

the *Britiſh ſhore* alſo is ſet forth in the Title of that Count. But this is a manifeſt Error. Wee know indeed the Writers of that time do ſay, that both the ſhore over againſt ours and the neighboring Sea, was infeſted by the frequent depredations and Invaſions of the *Saxons*, and (to ſay nothing of their antient habitations upon the *Daniſh* and *Batavian* ſhore) that they ſetled their abode there: And therefore that it was thence named *Saxon*, is in a manner out of doubt among learned men. But concerning the *Saxons* thus frequenting that ſhore, there are teſtimonies beyond all exception. [k] *Sidonius Apollinaris*, of the Coaſt of *Bretaign* in *France*, ſaith,

[k] *Panegyric. ad Avitum Auguſt. ſeu Carm. 7. Adde eum lib. 8. Epiſt. 6.*

Quin & Aremoricus piratam Saxona tractus
Sperabat.——

——hope then reviv'd the Bretaigns ſtout,
The Saxon Pirates being driven out.

And [l] *Ammianus Marcellinus* ſaith, that under the Emperors *Valentinian* and *Valens*, the *Coaſts of* Gallia *were waſted by the* Franks *and* Saxons *bordering upon them, every one making excurſions as far as they could by Land or Sea, with grievous plunderings, firings, and ſlaughters of ſuch as they took Priſoners.* Add moreover, that *Saxones Baiocaſſini*, the Saxons of Baieux are mentioned by [m] *Gregorie* of *Tours*, as antient Inhabitants upon the ſhore of *Aremorica*: So that the reaſon is evident, why the name of *Saxon* was given to the ſhore over againſt ours. But truly wee read not any where, that the *Saxons* had at that time either ſetled themſelvs upon the ſhores of *Britain*, or were wont to ſail thither, or that they infeſted any thing of *Britain*, except the Sea. Nor do wee finde ſo much

[l] *Hiſtor. lib. 27.*

[m] *Lib. 5. cap. 26.*

as

as the least sign or evidence, whereby to conjecture that the name of *Saxon* was either due or given at that time to the shore of *Britain*. And it was never heard (I suppose) that any shores, which have been of any account or fame, should have taken a new name either from a meer passage, or a bare infesting of the Sea by such as sail along the Coast, without landing. Especially, in the setting forth of a Dignitie or Command, which cannot bee don, except an addition bee made in the mean time of the name of the Land, whereto the shore it self did indeed belong. Run over all the Dignities which are recorded in the *Breviarie* of both Empires, you will finde none set forth by any other denomination, then either from a Bound or Frontier it self, as those that were appointed for the defence of Bounds and Frontiers; or else from a more known and certain name of some Province, as the rest. Wee know indeed, there was a Haven among the **Morini*, which lay over against us on the other side of the Sea, called heretofore *British*, or, as [n] *Plinie* names it, *Portum Morinorum Britannicum* **the British Port of the Morini**: which name [o] learned men would have to bee derived from our *Britain*. But (supposing it to bee *Calais*) they would have it so denominated becaus of *Julius Cæsar*'s crossing over from that Port into *Britain*. Now, it doth not appear by the like, or any equivalent reason, that the shore, which belong's to *Britain*, was called *Saxon*, in the time of that *Dignitie* whereof wee speak. And doubtless, there is no improbabilitie in reason, that the *British* Port of the *Morini*, might in the daies of *Plinie*, or of the Emperor *Vespasian* (which is all one) bee denominated from the riding of such Ships as were imploied under the *Romans* to guard the neighboring

* The *Morini* were a people of *Belgica*, bordering upon the Sea, and seated between *Artois* and *Picardie*.

[n] *Nat Histor. lib. 4. cap. 23.*

[o] *Jacob Chifletius, in Portu Iccio, cap. 6.*

boring Sea, ſo far as it was *Britiſh*, and ſubject to the Lievtenancie or Juriſdiction of *Britain*. But truly if the very ſhore of the Iſland had been meant in the Dignitie of that *Count*, whereof wee ſpeak, whoſe Office was to guard the Bounds, how compendiouſly might hee have been called *Count of the Britiſh ſhore*? For, what ground had there been for ſo ſingular a circumlocution of words, as *Count of the Saxon ſhore throughout Britain*, if it had been the very ſhore of *Britain*? It is plain, that as in the Imperial Offices there was an Officer called *Magiſter Militum per Orientem*, *Magiſter Militum per Thracias*, *per Illyricum*, *peditum per Occidentem*; **a Maſter or Commander of the Militia throughout the Eaſt, a Maſter of the Militia over all** Thrace, Illyricum, **and of the Infantrie or Foot throughout the Weſt**; ſo alſo that this Officer was called *Count throughout Britain*. That is to ſay, every where throughout *Britain*, ſo far as it belonged to his particular charge, that is, as far as was neceſſarie to guard the bounds of the Empire, placed next to the *Saxon ſhore*, or that which is on the other ſide of the Sea. And ſo the words, whereby this Dignitie is expreſſed, are to bee diſtinguiſhed that hee may bee plainly called *Count throughout Britain*; but *of the Saxon ſhore*, or *Bound beyond-Sea*, upon the ſame account as other Dukes or Counts in Command over Bounds or Frontiers were wont to bee entitled. And there is an eminent example to this purpoſe in the Bound of the *German* Empire, which was held by the *Romans*. It was the River *Rhine*. The Guard of the *Rhine* was wont to bee committed to a Lievtenant or Governor; as appear's by [p] Hiſtorians, and out of [q] the Code of *Theodoſius*. But yet the Bank on the other ſide of *Rhine* was the bound

[p] *Zonaras, Tom. 2. alii.*
[q] *L. 9. C. Theodoſ. lib. 7. tit. 1.*

of

of this Government, and ſo of the *German* Empire, not the Bank on this ſide. From whence alſo *Poſthumius* beeing entruſted with this charge under the Emperor *Gallienus*, is by the Emperor *Valerian*, in an Epiſtle of his ſent unto the *French*, called *Duke of the Bound beyond Rhine*; as wee learn out of [r] *Trebellius Pollio*. Alſo, the *Bound beyond Rhine*, that is, the Bank beyond the *Rhine* is recorded by [t] *Flavius Vopiſcus*. Thus, uſually the Proconſul of *Aſia* had the whole ſtreight of *Helleſpont* under his Command as far as the ſhores of *Europe*, as is ſhewn in the fourteenth chapter. And certainly, the *Count of the* Saxon ſhore *throughout Britain*, is after the ſame manner to bee reckoned Count of the ſhore or bound on the other ſide of the Sea, and ſo of the whole Sea flowing between, as an eſtabliſhed Officer in the Government of *Britain*. And this alſo is very much confirm'd out of another place of the very *Breviarie of Dignities*, where mention is made of the ſeveral Juriſdictions of thoſe Counts which were under the Command of that eminent perſon entitled *Magiſter Militum Præſentalis*. In the printed Copies of the Breviarie, wee read it thus;

[r] *In trigenta Tyrannis.*

[t] *In Tacito Auguſto.*

Sub diſpoſitione viri illuſtris Magiſtri peditum Præſentalis, Comites Militum infrà-ſcriptorum;

Italiæ,
Africæ,
Tingitaniæ,
Tractûs Argentoratenſis,
Britanniarum,
Litoris Saxonici per Britannias.

In the Edition both of *Alciatus* and *Pancirollus*, it is read, as wee render it here, *Militum infrascriptorum.* Yet doubtless the word *Limitum* **Limits** ought to bee put in stead of *Militum* **Souldiers**: For it is not agreeable to the nature of the Imperial Offices, that the word *Militum* should bee admitted in that place. And it appear's most certain by those things which follow, that *Italie*, *Africa*, the Tract of *Strasburgh*, *Britain*, and the *Saxon Shore*, had their respective *Counts*, as *Comites Limitum* **Counts of the Limits** or Bounds, no otherwise than those Territories which are added there next after; as *Mauritania Cæsariensis*, *Tripolis*, and other Provinces in like manner, besides *Britain*, which had their respective *Dukes* likewise, by the name of *Duces Limitum* **Dukes of the Limits.** But now both the *Duke* and *Count* of *Britain* had the very Shore of the Island for their Limit or Bound. And therefore seeing it is so, what Limit had that *Count* relation to, was who entitled of the *Saxon Shore throughout Britain*, if you will not yield that hee took his Title from the Shore lying over against us? There was a *Duke*, and a *Count of Britain* (simply so called) besides a *Vicarius*, or *Deputie of Britain*, who governed the whole Island according to their several charges; and wee finde in the *Breviarie*, that both the *Duke* and the *Count* and the *Deputie* had for the signal Ornaments of their Offices, the whole Island, but in several Forms, encompassed with the Sea; even as the *Count of the Saxon Shore* had the Isle in like manner, encompassed with Sea-Towns or Ports. Also, it is manifest by those which are set forth in the *Breviarie of Dignities*, that the *Deputie*, *Duke*, and *Count of Britain* had the very Territories of the Isle for the

Limits

Limits of their Goverment, and ſo alſo that they extended themſelvs to the very Shores every where throughout the Juriſdiction of the *Romans*. So that alſo both the *Duke* and *Count of Britain* ought to have been entitled in like manner from the *Saxon Shore* as from a Limit or Bound, if the Shore of *Britain* had been called by this name at that time. For, wee plainly ſee, that the Iſlands of *Britain* themſelvs, ſo far as the Iſles about it are comprehended under that name, are expreſsly deſcribed under the notion of Limits, in that Catologue of Dignities relating to *Limits*, which wee have cited out of the *Breviarie*. Therefore from hence alſo it appear's, that Limit which was the *Saxon Shore* is to bee reckoned without the Iſland, and ſo in the Shore over againſt us or which lie's beyond Sea, according to that which wee proved before in our Diſcourſ. Nor truly, is it to bee paſſed over without obſervation, ſeeing there are very many ſignal Ornaments, of Sea-Provinces and Juriſdictions, as well as of thoſe within Land, pictured in the *Breviarie*, and this according to the Form or Faſhion received from thoſe that had the ſupreme power, by the principal Secretaries or others who drew up the Commiſsions; That not only no Ornaments at all are found in the Dignities of the Weſt, wherein there is any Tract of the Sea, except thoſe which belong to the Government of Juriſdiction of *Britain*, nor indeed in the Dignities of the Eaſt, except the Counts of *Egypt* and *Iſauria* (both whoſe Ornaments had a Sea-border about them;) but alſo that the Sea was ever placed round about in the ſignal Ornaments belonging to the four ſeveral Governments or Juriſdictions of *Britain*, that is to ſay, that of the *Deputie*, the *Duke*, the *Count*, and laſtly, the *Count of the* Saxon Shore *throughout*

out Britain. Juſt as if the *Romans* would have had it ſignified thereby, that no other Province at all, nor any other Juriſdiction whatſoever had either a Dominion of the Sea ſo amply conjoined, mingled, and as it were incorporated within it ſelf, or a protection and command of a Territorie by Sea.

Som Evidences concerning the Soveraigntie and inſeparable Dominion of the Iſle of *Britain* and the Sea belonging thereto, *out of* Claudian, *and certain* Coins *of the Emperor* Antoninus Pius.

Chap. VIII.

FRom the Dominion of the *Britiſh* Sea, as beeing continually united to the Iſland, or an inſeparable concomitant thereof (as hath been alreadie ſhewn you) proceeded, as it is very probable, thoſe paſſages of *Claudian*, who ſeldom ſpeak's of the quieting, recovering, or ſubduing of *Britain*, but hee add's alſo the Sea it ſelf, as that which did neceſſarily accompanie it. Speaking in honor of the Emperor *Honorius*, touching the original of his Family, which was out of *Spain*, he ſaith,

[a] *Panegyric, de 4. Conſulatu Honorii.*

[a] ——— *Cunabula fovit*
Oceanus. Terræ dominos pelagíque futuros
Immenſo decuit rerum de Principe naſci.
Hinc proceſſit avus ———

The Ocean rock't his Cradle. It became
Thoſe who as Lords both Sea and Land ſhould claim,

Of

Of nature's mightie Prince deriv'd to bee.
From hence thy Grandsire had his pedegree.

That is to say, *Theodosius*, who after that *Nectaridius* Count of the *Saxon Shore*, as is before related, and *Buchobaudes* Duke of the Island, were slain, was sent into *Britain* by the Emperor *Valentinian* the first. But that which *Claudian* saith, concerning the affairs and actions of this *Theodosius*, relate's very little to the Sea, save that hee call's him *Conquerer of the* British *Shore*, and adds that *having vanquished the* Saxon's, *hee washed the Orcades with their Bloud.* Which is plainly to bee understood of his scouring the *British* Sea that was wont to bee infested by the *Saxons*. A little after also, concerning *Theodosius* the son of this man, or the Father of *Honorius*; that is, the Emperor *Theodosius* the first, hee saith,

Sed laudes genitor longè transgressus avitas
Subdidit Oceanum sceptris.———

His Father did his Grandsir's worth transcend,
And brought the Ocean under his command.

Which without question relate's to the recoverie of *Britain*, after the slaughter of *Maximus* at *Aquileia*, who had tyrannically usurped the Soveraigntie of the Island. The same Autor writing also in commendation of *Flavius Stilico* Tutor or Guardian of *Honorius* the yonger, bring's in *Britain* her self saying, Stilico *hath so fortified and secured mee,*

——— [b] *ne Litore toto*
Prospicerem dubiis venturum Saxona ventis;
I could not see throughout the Shore, or stand
One Saxon **readie to crosse o're and land.**

[b] *De laudibus Stiliconis. lib. 2.*

That is to say, hee rendred the Sea quiet and secure for mee; hee hath guarded and kept it for mee; hee hath driven away the *Saxons* from the use of it. In another place also, hee bring's in the Goddess *Pietie* speaking to *Honorius*,

[c] *In Eutropium, lib.* 1.

[c] ——— *Quantum, te principe, possim,*
Non longinqua docent: domito quòd Saxone Tethys
Mitior, aut fracto secura Britannia Picto.

What progress I may make, during thy Reign,
Some late examples tell us; since the Main,
The Saxon **being tam'd, is grown more sure,**
And Britain **from the conquer'd** Picts **secure.**

The Protection of the Sea is in this place plainly conjoined with that of the Island. The same Poët also, to *Manlius Theodorus* the Consul, saith,

——— *Hispana tibi Germanáque Tethys*
Paruit, & nostro diducta Britannia mundo.

Spanish **and** German **Seas both yield to thee,**
And Britain **sever'd from our World by Sea.**

There was the same Dominion, the same Victorie, and the same Guardianship or Protection alwaies both of the *British Tethys*, or Sea, and the Isle it self. For, the *German Tethys* in this place is that part of the *British* Sea which flow's between *Belgium*, *Holland*, *Friesland*, the *Jutæ*, and *Britain*.

Add hereunto the form of the Province (which under the more antient Emperors was governed by a *President*)

as it is found among the *Roman* Coins. It is repreſented in the Figure of a woman, clothed with a Pall or linen frock, ſitting ſomtimes upon *rocks*, ſomtimes upon a *Globe* in the Sea, with a Militarie Enſign, a Spear, and a Buckler; as you have here pictured according the braſs-Coins of *Antoninus Pius*.

Thus they ſignified, that *Britain* had Dominion over the Sea about it, and the *Roman* Emperor over *Britain*. But we finde not any form of this kinde before the time of *Seius Saturninus*, the firſt *Prefect* (whereof any mention is made by the Antients) or Commander in chief of the *Britiſh* Navie, or of thoſe Naval Forces, wherewith the *Romans* guarded the *Britiſh* Sea. Hee held this Command under *Adrian*, or *Antoninus Pius*, as hath been ſaid alreadie. And from hence it is that *Claudian* afterwards, when hee make's a Repreſentation of *Britain* (beeing in a ſpecial manner, called the Iſle of the Sea) hee clothe's her with a leathern garment ſo made as it were like waves of water, and died of a blewiſh color, that it wholly reſembled the waves of the Sea; and hee put's the Sea under her feet. Thus hee indeed deſcribe's her, when hee bring's in ſeveral Provinces, as *Spain*, *Britain*, and *Africa* demanding the Conſulſhip for *Stilico* at *Rome*. And hee mention's *Britain* in a peculiar manner.

[d] *Indè Caledonio velata Britannia Monstro,*
Ferro picta genas; cujus vestigia verrit
Cærulus, Oceanique æstum mentitur amictus.
Me quoque vicinis pereuntem gentibus, inquit,
Munivit Stilico; totam cùm Scotus Hibernam
Movit, & infesto spumavit remige Tethys.

[d] *De laudibus Stiliconis, lib. 2.*

In monstrous habit Caledonian-wise
Then Britain came; her cheeks had a disguise
Of divers colors, which, to please the view,
In various forms an Iron Pencil drew;
Just at her heels the Sea it self did glide,
Her Mantle mock't the working of the Tide.
Mee and my Neighbors Stilico did save,
Quoth shee, and bravely rescue from the grave;
When as the Scot mov'd Ireland to rebel,
And Pirates made great * Tethys foam and swell.

* *Tethys* signifie's the Sea.

A little before, there hee set's forth the hair of *Spain* with leavs of the Palm-tree, and her mantle imbroider'd with the River *Tagus*; And *Africa* with ears of Corn and Ivorie, after the same manner as it was stampt in the Coins of *Antoninus Pius*. Both these are washed, and almost encompassed by the Sea. But the Poët then understood, that the Dominion of the adjacent Sea belong'd to neither of them, as it did to *Britain*: But as the Palms, and the River *Tagus* were peculiar to *Spain*; as the ears of Corn and Ivorie to *Africa*; so hee would have it understood, that the Province of *Britain* had the Sea of the same name peculiar thereunto. But yet it is to bee conceived, that

that the Dominion of the *Romans* was ſo limited in this Sea, according to their poſſeſsion of the ſhore, that they had little power in that part of the *Britiſh* Sea, which border'd upon the ſhores of thoſe *Britiſh* Nations, who were not under their obedience: This is to bee taken chiefly of the *Iriſh* Sea, and the reſt that lie's North-weſt. For when the *Romane* Empire began to decline, not onely *Ireland*, but the Iſle of *Man* alſo, and the other Iſles of the Weſtern Sea, and a great portion of the more Northerly part of *Britain*, was poſſeſſed by the *Scots* and *Picts*; ſo that wee have ſufficient ground to conceiv, that they alſo had an antient Dominion of their own in the neighboring Sea. And ſo let this ſerv to have been ſpoken concerning the Empire or Dominion of the *Britiſh* Sea, in the time of the *Romans*, as that which by antient Right no leſs belong'd to the Iſle and the Empire thereof, then either a Wall or Suburbs unto a Citie. Now wee paſs on to the times of their Succeſſors.

Touching the Dominion of the Britiſh Sea, after that the Inhabitants *had freed themſelvs from the Romane power.*

CHAP. IX.

WHen the Romane Empire was declining under the Emperors *Theodoſius* the yonger, and *Honorius*, and *Valentinian* the third, inſomuch that they had not Forces ſufficient to guard the Citie it ſelf, then the *Britains* freed themſelvs

wholly from their Power, about CCCCLXXX. years after the arrival of *Julius Cæsar*, or in the year of our Lord CCCCXXX. That is to say, as [a] *Zosimus* writes, *They cast off the Roman Government, and settled a Common-weal after their own liking.* Then the Dominion of the Sea, as well as of that part of the Isle which was possest before by the *Romans*, returned unto the Natives. In the mean time, the *Saxons* inhabiting the shore over against us, hanker'd after it, who beeing a people extremely given to Piracie, the *Romans* were wont to appoint an Officer to drive them away, called the *Count of the Saxon shore throughout Britain*, as hath been shewn at large alreadie. Nevertheless beeing sent for by the Southern *Britains* destitute of all manner of succor from the *Romans*, to assist them against the *Scots* and *Picts*, they at length got the whole Power here into their own hands. And so in that famous Heptarchie of theirs, the Kingdom was ever accounted of in such a manner, that even before the time of King *Egbert*, it was under the Power of som one King, which all the rest acknowledged as Supreme. These were driven out by the *Danes*; but questionless, they both had a Dominion by Sea conjoined with that upon Land. For it is not to bee imagined, that they who were so *accustomed to the Sea*, and to whom before that time

[a] *Histor. li. 6.*

[b] *Sidon. Apollinaris Panegyric. ad Avitum Aug. seu Carm. 7.*

——[b] *pelle salum sulcare* Britannum
Ludus, & assuto glaucum mare findere lembo;

It was a sport to cut the British **Main**
In Leathern Barks, and plow the azure plain.

And whose Rowers or Mariners had you beheld, you would have

have thought you had seen so many Arch-Pirats, as [c] *Sidonius Apollinaris* saith of the *Saxons*; And who *did not onely know, but were familiarly acquainted with the dangers of the Sea*; The very same thing is to bee said of the *Danes* also and *Normans*, (for, these names beeing promiscuously used, do very often signifie the same Nation) as is sufficiently attested by *Regino, Dudo,* the Monk of *Malmsburie, Abbo, Gemiticensis,* and others; It is not, I say, to bee imagined, that these people having gotten possession either of the Isle or shore, to which the Soveraigntie of the Sea did so neerly appertein, should not in like manner have possessed the Sea, also lying before it, by right of Dominion. Nor is it perhaps altogether unworthie to bee considered, that these *Saxons* had so great, so singular and admirable an acquaintance with the Sea and Sea-affairs, that by an exquisite observation of the *Tides* and * *Ebbings* of the Sea, they were wont to reckon their months and years, yea, and to frame Computations of years thereby. A thing not to bee parallel'd by any example. And as the more antient Husbandmen used to reckon daies and hours by the time of yoking their Oxen; and as most other Nations measured years and daies by the court of the Sun and Moon, (as things most to bee regarded before others, in the improvement and various use of those Lands that they possessed): so these alone distinguished their yearly and monthly periods, by the meer reciprocal motion of the Sea, which they were so well acquainted with, and by its various beating upon the shore in Ebbing and Flowing, as that whereof special notice was to bee taken in that kinde of life. Moreover, as they say the *Egyptians* derived their skill in *Geometrie* from the measuring of their Fields, after the Inun-

[c] *Li.8. Epist. 6.*

* The *Ebbs* they called *Ledones* or *Lidunas*; the *Tides* they called *Malinas*.

Inundation of their River *Nilus*; so it is not to bee doubted, but that our *Saxons* derived this strange artifice, never heard of in any other Countrie, from a very frequent use and perpetual observation of the Sea. Concerning which, hee that would know more, may perúse our *venerable* [d] *Bede* first, and after him [e] *Joseph Scaliger*, [f] *Dionysius Petavius*, and *Olaus* [g] *Wormius*. But that the whole Nation was very much accustomed to Sea-affairs, and not onely those that border'd upon the Sea, may bee collected from thence, that otherwise it would hardly bee believed, that the Nation it self could have kept an accompt of Times and Seasons, by the various cours of the Sea: For it could not possibly bee, but that such an accompt would have been either useless, or too difficult for those that were not used to the Sea. Yea, without doubt it was no small caus of their calling the *Saxons* into the Island, that they beeing most expert Sea-men, might guard the Sea, which having been newly deserted by the *Roman* Navie, lay open at that time to the Invasions of Enemies on every side. Thus much indeed seem's to bee signified by [h] *Ethelwerd* an antient Writer, speaking of their coming hither. *In those daies*, (saith hee) *the Britains heard that the* Saxon *was a Nation active in Piracie or Navigation, and strong in all kindes of Necessaries for warr, throughout all the Sea-Coast from the River* Rhine, *as far as the Citie* Donia, *which is now commonly called* **Danemare**. *To them therefore they sent Messengers with extraordinarie great Presents, desiring aid, promising them a peaceable intercours and amitie.* Thus they that were wont before to infest the *British* Sea, are invited to its protection and amitie. And truly, that the *Britains* had a very special care at that time of the Sea-affairs, and so of the Guardianship of their Sea,

[d] *De Naturâ Rerum, cap. 28.*
[e] *De emendatione temp. lib. 2. pag. 162. & in Appendice ad conjectan. in Varronem pag. 181. Edit. 1581.*
[f] *De Doctrinâ temp. li. 2. cap. 70.*
[g] *In Fastis Danicis, lib. 1. cap. 11.*
[h] *Lib. 1.*

Sea, appear's from thence; that in the ſtorie of *Britain*, wee read concerning the moſt famous King *Arthur* and Prince *Malgo*, that by many bloudie Battels they either added or recover'd *ſix Comprovincial Iſles of the Sea*, (which are the very words of *Geofferie* of *Monmouth*) that is to ſay, *Ireland, and Shetland, Gotland, the Orcades, Norwey, and* * *Dacia, to their Dominion*; yea, and *Groenland, and all the other Countries and Iſlands of the Eaſtern Sea as far as Ruſsia, and many other Iſlands beyond* [i] Scantia, *even to the fartheſt part of the North.* And that which wee finde in *Nennius* the Scholar of [k] *Elvodugus*, is to bee underſtood of this time, to wit, that *Cuneda* the Grandfather of *Magolcunus* a Prince of the *Southern Britains*; drave the *Scots* out of all the Countries and Iſlands of *Britain*. Certainly, for the effecting of this, it was neceſſarie there ſhould bee a very great ſtrength in ſhipping; for the guard and ſecuritie of the neighboring Sea.

* By *Dacia*, here is meant *Denmark*.

[i] *Vide Guil. Lambard de priſcis Anglorum legibus pag.* 137.

[k] *Ms. in Bibliothecâ Cottonianâ.*

It is proved, both from the *very beginning of the Saxons Reign*, as alſo from *their Forces and Victories by Sea*, that the *Engliſh-Saxons, and Danes*, who ruled the South-part of *Britain*, had Dominion over the Sea.

CHAP. X.

BEſides what hath been alreadie ſaid of the *Saxons*, during their Reign here, there are alſo in antient Records divers other particulars, which more plainly ſhew, that both they and the *Danes* had

Dominion over the Sea, whilſt they reigned in *Britain*. Thoſe particulars I divide into four parts: The firſt reſpect's the *Original of the moſt Potent Kingdom of the Saxons.* The ſecond, *the Naval Forces and Victories of the following time.* The third, *the Tributes and Duties of fiduciarie Clients or Vaſſals* belonging to the maintenance of the Navie. Laſtly, ſeveral plain and *moſt evident teſtimonies concerning the Soveraigntie of the Engliſh-Saxon Kings* at that time over the Sea.

In the firſt beginning of the Reign of the *Engliſh-Saxons*, I reckon both the coming of *Octha* and *Ebiſſa*, invited hither by *Vortigern* upon the perſwaſion of *Hengiſt*, as alſo the arrival of King *Ælla* in *Suſſex*. Hee poſſeſſed himſelf of the Sea, and the Southern ſhores; they of the Northern. Concerning the Naval Forces of *Octha* and *Ebiſſa*, [a]*Nennius* the Scholar of *Elvodugus*, who uſually paſſeth up and down alſo by the name of *Gildas*, ſpeak's thus; *They ſailing about the Picts, with fortie Veſſels, called* * Ciulæ, *ſpoiled the Orcade's Iſlands, and came and poſſeſſed very many Iſles and Regions beyond Mare Freſicum*, (meaning *Bodotria* or the Firth of *Edinburgh*) *which lie's between us and the Scots, even as far as the Borders of the Picts. And* Hengiſt *by degrees drew thoſe* Ciulæ *to himſelf, ſo that they forſook the Iſles which they inhabited.* It could hardly bee more plainly expreſſed, that the Nation beeing accuſtomed to the Affairs of Navigation and Wars by Sea, having thus gotten a great part of *Britain*, did firſt ſecure that inſeparable Appendant of the Iſland or the Sea; having brought over a numerous Force, for the accompliſhment of this deſign. As to what concern's *Ælla*, they write, that hee with his ſons *Ciſſa* and *Cimenus*, and a Navie very well appointed with Militarie Forces, arrived upon the ſhore of *Suſſex*, neer

[a] Ms. *in bibliotheca Cottonianâ, & partim apud Camden. in Britan. p. 91.*

* Theſe *Ciulæ* were full of Saxons, which *Sidonius* call's *Pandos Myoparones*, Veſſels built ſomwhat long and narrow.

neer **Witering,** [b] **Cimenshore**, so called heretofore from this *Cimenus*; and that having driven away the *Britains*, hee possessed the [c] Sea-Coast; and sending daily for new Aids out of *Germanie*, hee at length enlarged his Kingdom along the Eastern shores, as far as the River *Humber*, and was the first of the *English Saxons* that attained here to so large a Dominion. Also, that his posteritie enjoied this Kingdom about LXX years. But truly it could hardly bee, that they who were eminently powerfull in shipping, and had made so happie a Progress upon the shore, should not in like manner bee Masters of the Sea it self; especially seeing wee finde not the least testimonie that any others were at that time, of any considerable strength in shipping upon this Coast.

[b] *Cart. Cedwallæ R. apud Camden in Britann. pag. 223*
[c] *Ethelwerd lib. 1. & 3. ca. 3. Henric. Huntindon. lib. 2.*

But as for the *Naval Forces and Victories* of the succeeding Kings, both *Danes* and *English-Saxons*, they are to bee seen every where in *Joannes Asserius* Bishop of *Shirburn*, *William* the Monk of *Malmsburie*, *Henrie* Arch-Deacon of *Huntingdon*, *Roger Hoveden*, *Florentius* of *Worcester*, and *Florilegus*; but especially in the Acts of K. *Alfred*, *Edward* the elder, *Athelstan*, *Edgar*, *Ethelred* and *Harold*. And questionless, long after the beginning of the *Saxons* Reign, this Countrie flourisht not a little in shipping, for the mainteining of the Soveraigntie of the Sea, as may bee collected both from the Customs of the Nation alreadie mentioned, and the frequent use of Navigation, from which the Merchants that used to traffick on both the shores were prohibited, upon the occasion of a difference that arose betwixt *Charls* of *France*, (afterwards Emperor) and *Offa* King of the *Mercians* among the *English-Saxons*, to whom the rest were in subjection. Yet a freedom thereof was restored not long after, by an agreement of extra-

ordinarie benefit and advantage to the *Engliſh-Saxons*, as wee finde in [d] *Alcuinus*, and *William* of *Malmsburie*. But before K. *Alfred*, their power began to decreaſ by Sea, and that eſpecially in the time of K. *Ethelwolph*, when the [e] *Danes* or *Normans* infeſted not onely the ſhores, but alſo almoſt the whole Iſland, after a moſt grievous manner, and ſeized upon moſt of the Iſles by force, which lie on the weſt of *Britain*. And ſo all was expoſed to the mercie of Pirats. But after that *Alfred* was inveſted in the Kingdom, the defence of the Sea was reſtored, and its Dominion eſtabliſhed; concerning whom, that *Aſſerius* Biſhop of *Shirburn*, his Tutor, write's thus: *Hee gave command for the building of Boats and Gallies*, that is, *long ſhips throughout the Kingdom, that hee might prevent his enemies, and fight them by Sea, and putting Pirats aboard them, hee charged them to guard the paſſages of th Sea.* And a little after, *Hee commanded alſo his Sea-men, to keep all relief of Victual from going to the Enemie by Sea.* Hee uſed the word *Pirats* in this place (as others of that age have don) not for Robbers, as 'tis commonly taken; but for ſuch as beeing skill'd in Sea-affairs, were appointed to ſet upon the Enemie's Fleets, and defend the Dominion by Sea: Touching the derivation of the word, the old Scholiaſt upon *Sophocles* his *Aiax*, ſaith; Πεῖρα Ἀτθικῶς ὄλος ἡ τέχνη· ὅθεν καὶ Πειραταὶ οἱ κατὰ θάλασσαν κακοῦργοι, That is, *Pira, in the Attick Tongue, ſignifie's craft or art, and hence it is, that they are called Pirats which infeſt the Sea.* But when the *Engliſh-Saxons* and *Danes*, in the time of K. *Alfred*, were ever and anon ſtrugling for the Soveraigntie in *England* (for, *Gurmundus*, or *Guthrunus* King of the *Danes*, was at that time ſetled in *Northumberland* as a *Fiduciarie Client or Vaſſal* to *Alfred*, and had very large Territories in the Eaſt-

[d] *In Epiſt. apud Guil. Malmsbur. de de geſtis Regum, lib. 1. c. 5 Et in operibus Alcuini inter Epiſtolas, p. 1669.*

[e] *Geſta Normann. ann. 840. Malmsb. lib. 2. cap. 2. &c.*

Eaſt-part of *England*) their Fights were moſtly by Sea, as if they had both been of opinion, that hee which could get the Dominion of the *Britiſh* Sea, would by neceſſarie conſequence becom Lord alſo of the Land, or of that part of the Iſle which lie's before it. For this cauſ alſo it was, that the *Danes* growing ſtrong at Sea, K. *Alfred* mightily augmented his Naval Forces, by building ſhips twice as long as the *Daniſh* ſhips, deeper, nimbler, and leſs rocking or rolling, and ſo much more convenient for Sea-Fights. *Florentius* the Monk ſaith, *In the ſame year* (that is to ſay, the year of our Lord MCCCXCVII.) *the Forces of the Pagans reſiding in Eaſt-England and Northumberland, uſing Piracie upon the Sea-Coaſts, did grievouſly infeſt the Weſt-Saxon's Countrie, with very long and nimble ſhips, which they had built divers years before. Againſt whom ſhips were built by the Command of K.* Alfred, *twice as long, deeper, nimbler, and leſs waving or rolling by whoſe force hee might ſubdue the aforeſaid ſhips of the Enemie.* It is related alſo in the ſame words by *Roger Hoveden.* But *Henrie* of *Huntingdon*, ſpeaking expreſly of the number of Oars that ſerved for the rowing of theſe ſhips of *Alfred*, ſaith, *King Alfred cauſed long ſhips to bee made readie; to wit, of* 40 *Oars or more, againſt the* Daniſh *ſhips.* But there are [f] Chronicles written in the *Saxon* Tongue, that ſpeak of ſhips of 60 Oars, and larger, built by him at that time; out of which theſe Writers above-mentioned, and others of the like ſort, have compiled theirs. The words of the Chronicles are theſe, þa het ælfred Cing timbrian lange ſcipu ongen þa æſcas þa þæron full neah tpa ſpa lange ſpa þa oðre. Sume hæfdon XL ana ſume ma. þa þæron ægþer ge ſpiftpan geunpealdpan geeac heapdan þonn þa oðre.

[f] Ms. *Codices bini, in Bibliothecâ Cottonianâ, anno* 897.

oðre. næron hi naþor ne on frisise gescea-pen ne on denise buton swa him selfum þuhte þ hi nyt þeorþoste beon mihton, That is to say, *King* Alfred *gave command for the building of long ships to encounter the* Danish. *But they were twice as long as these; whereof som had sixtie Oars, som more. They were also more nimble, less rolling, and deeper then the other. Not built after the* Frisian *or* Danish *manner; but such as hee conceived most convenient for fighting.* So that there is no doubt but the business of shipping was mightily advanced in his Reign, among the *English-Saxons*, in order to the defence and maintenance of their Dominion by Sea. And wee very often finde, that those Sea fights managed by *Alfred* and his son *Edward*, with various success, against the *Danes*, and *Normans*, were undertaken not without great numbers of Shipping. But in the time of King *Athelstan*, who was very strong at Sea, upon *the Irish Nation* (saith [g] *Huntingdon*) *and those that dwelt in ships, there fell a fatal destruction.* The *English-Saxon* words in the antient Chronicles, from whence *Huntingdon* translated those, and which agree wth these, are, Scotta leode ⁊ scypflotan fæge feollan, which fully signifie the same thing. For, Scotta leode or the *Scotish Nation* and *Scots* are by the Antients often taken for the *Irish*. *Hee also* (saith the same Autor) *led an huge Armie by Land and Sea into* Northumberland *and* Scotland, *and in regard there was none appear'd to make any opposition, hee marched up and down the Countrie, and wasting it at pleasure, returned with Triumph*; whereupon saith a [h] *Poët* of that time,

Jam cubat in terris fera barbaries Aquilonis;
Jam jacet in campo, pelago, pirata, relicto,
Illicitas torvásque minas Analavus *anhelans.*

g *Histor. l. 5.*

h *Apud Guil. Malmsbur. de gestis Regum 2. cap. 6.*

Now

Now is the Wilde and barb'rous North
brought down;
Now Analave, the Pirat, is o'rethrown,
Who having left the Sea, on Land doth
lie,
And spightful threats breath's out against
the Skie.

This *Analavus* was King of the [i] *Irish*, and of many Islands, who invading the Coasts of *Athelstan* with a Fleet of DCXV ships, at the mouth of the River *Humber*, received a great overthrow, and was put to a most shameful Flight. But King *Edgar* (as saith [k] *Florentius* of *Worcester*) *sailing about the North of* Britain *with a great Navie, arrived at* Chester, *where his eight pettie Kings met him, as hee had given order, who sware fealtie to him, and that they would assist him both by Sea and Land.* Or, as [l] *Huntingdon* saith of the same thing, *they all did homage to him, declaring themselvs readie at his command to serv him by Sea and Land.* Among these pettie Kings there was one *Maccusius*, whom *Hoveden* and *Florentius* call *a King of very many Islands*; and *Florilegus*, a *King of* Man, *and very many Islands*. *William* of *Malmsburie* call's him an Arch-Pirat, Moreover, the same King *Edgar*, as if hee intended to set forth the splendor, magnificence, and as it were an Epitome of his whole Empire in Sea-affairs and Shipping, *did* (as say *Florentius* and *Hoveden*, during his abode at *Chester*) *enter into a Boat, wherein hee was rowed by those pettie Kings, himself holding the* Stern, *and steering it about the River* Dee; *and beeing attended by all his Dukes and Peers in such another Vessel, hee sailed from the Palace to the Monasterie of S.* John Baptist, *where an Oration beeing made to him, hee returned in the same pomp unto the Palace.*

In

i *Roger Hovedenius, Annal. part.* 1. *Ann.* 937. *& Florent. Wigorn. ann.* 938.

k *In anno* 937.

l *Anno Edgari,* 13. *Huntingdon. l.* 5.

In the very Entrie whereof hee is reported to have said to his Lords, that then his Successors might boast themselvs Kings of England, *when they should bee thus attended by so many Kings, and enjoy the state and glory of such honors*; or, as *Malmsburie* write's of the same thing, *when they should enjoy so great a Prerogative of honors*: So many Kings as Vassals, to bee readie alwaies to assist with their Forces, whensoëver they should bee required, both by Sea and Land. There is also a notable testimonie in the same *Florentius*, and the Monk of *Malmsburie*, how that this King sailed round about his Sea every year, and secured it with a constant Guard and Forces. *Every Summer*, saith *Malmsburie*, *immediately after* Easter, *bee commanded his ships upon every shore to bee brought into a Bodie, sailing usually with the Eastern Fleet to the West part of the Island, and then sending it back, hee sail'd with the Western Fleet unto the Northern, and thence with the Northern hee returned to the Eastern, beeing indeed very diligent to prevent the Incursions of Pirats*; *that is*, *behaving himself in this manfully* (as say *Florentius* also, and *Hoveden*) *for the defence of his Kingdom against Foreiners, and the training up of himself and his people for warlike emploiments*. Thus the Guardianship or maintenance of the Dominion by Sea is evident.

But as concerning the Fleets aforementioned, they each of them consisted of $\overline{\text{MCC}}$ ships, and these, as Writers say expresly, *very stout ones*; so that in the time of his Reign, the *British* Navie consisted of such ships to the number of *Three thousand six hundred Sail*, as [m] *Florentius* and *Hoveden* speak expresly. But others write, that these Fleets amounted to *Four thousand* ships; as [n] *John Bramton* Abbot of *Jorvaux*, others adding to these Three a *Fourth Fleet*, whereby the number is increased to *Four Thousand Eight hundred Sail*; as you may see

[m] *In anno* 975.

[n] *Ms. In Bibliothecâ Cottoniarâ.*

ſee in *Florilegus*. So, as *Florentius* alſo ſaith, *Hee by the help of God governed and ſecured the bounds of his Kingdom with Prudence, Fortitude, Juſtice, and Temperance, as long as hee lived, and having the courage of a fierce Lion, hee kept all the Princes and Lords of the Iſles in aw.* Wee read alſo in *Ordericus Vitalis*, of King *Harold* or *Herald*, that hee ſo *guarded the Sea with a force of ſoldierie and ſhipping, that none of his Enemies could without a ſore conflict, invade the Kingdom.* So that wee cannot otherwiſe conceiv, but that theſe Naval Forces were at that time diſpoſed, and the Sea-Fights undertaken, for the defence and guard of the Sea, as an Appendant of the *Engliſh-Saxon* Dominion in this Iſland. Eſpecially, if wee duly compare theſe things alreadie manifeſt, with thoſe which are added by and by to this particular, touching the ſame age.

The Sea-Dominion of the *Engliſh-Saxons*, and *Danes*, during their Reigns in *Britain*, obſerved in like manner, from ſuch *Tributes* and *Duties* of their *Fiduciarie Clients or Vaſſals, as concerned the maintenance of the Navie.* Alſo, concerning the Tribute or Paiment called *Danegeld*, which was wont to bee levied for the Guard of the Sea.

CHAP. XI.

HEre follow next the *Tributes* and *Duties of Vaſſals*, concerning the maintenance of the Navie or Guard of the Sea; which are evidences alſo of

that Sea-Dominion which was in the time of the *English-Saxons*. I call those Tributes, which were wont to bee levied for the re-inforcing of the Navie, and for provision of Victuals for the Sea-men. Of which kinde were those that were levied, according to the value of men's estates in Land, for the setting forth of ships in the time of King *Ethelred*. For, at that time whosoever possessed CCCX. *Cassatos*, or *Hides* of Land, was charged with the building of one ship. And they were all rated proportionably, after this manner, who were owners of more or less *Hides*, or of part of an *Hide*; as [a] *Marianus Scotus*, *Hoveden*, and *Florentius* do all tell us in the very same words. *Ethelred King of* England (say they) *gave* strict command *that one Gallie should bee charged upon* CCCX *Cassati, but a Coat of Armor and an Helmet upon nine, and that ships should bee built throughout all* England, *which beeing made readie, hee victualled and manned them with choice souldiers, and appointed their Rendezvous at the Port of* Sandwich, *to secure the Bounds of his Kingdom from the irruptions of Foreiners*. But [b] *Henrie* of *Huntingdon*, as also *Matthew Paris*, and *Florilegus*, speaking of the same thing say; *The King charged one ship upon three hundred and ten Hides of Land through all* England; *also a Coat-Armor and Helmet upon eight Hides*. Then *Huntingdon* tell's what an Hide doth signifie. *But an* Hide *in English*, saith hee, *is so much Land as a man can till with one Plow for a year*. Others there are that determine otherwise touching the quantitie of an Hide: And most certain it is, that it was very various, according to the different Custom of Countries; but the same with *Cassata* and * *Carucata*. Indeed, the *English-Saxon* Chronicles of the Abbie of [c] *Abingdon*, do likewise mention Hides here expressly. In the year MVIII. Hep bebeaɔ ꝼe Cinꝫ (say they) þ man ꝼceolɔe oꝼeꝼ eall

[a] *Ms. anno* 1008. *in Bibliotheca Cottoniana.*

[b] *Histor. minor. Ms. in Bibliotheca Cottoniana.*

* A *Carue* *Land, i.e.* much as bee til- by one v in a

in Bib- ca Cot- a.

ɛall anʒelcyn ʃcipu ꝼæʃtlice þyꝼcan ꝥ iʃ ðonn oꝼ þꝼim hund ꝼiðum ⁊ oꝼ Tynum ænne ʃceʒð. ⁊ oꝼ VIII. ꝼiðum helm ⁊ byꝼnan, That is to say, *the King gave command for the building of Ships carefully throughout all* England; *to wit, that one Gallie should bee charged upon* CCCX *Hides of Land; but a Coat-Armor and Helmet upon eight* Hides. And it was usual, according to the Laws of that Age, that the richer sort should bee taxed by the number of *Hides*; as wee see also throughout that *Breviarie of England* or the Book of Rates called [d] **Domesday**, which was first written in the time of King *William*. *Huntingdon* add's also, *that there never had been so great a number of Ships in the time of any one in Britain*; which is testified in like manner by the *Saxon* Chronicles before-cited. So that, that most numerous Navie of King *Edgar* (mentioned in the former chapter) was not to bee compared with this. But yet that most learned man and great Light of our Island, Mr [e] *Camden*, hath so cast up the number of *Hides* throughout *England*, out of the antient Records of that Age, that they do not exceed 243600. If this had been so, then they could have set forth no more then 785 Ships by this Tribute, which is a lesser number then that of King *Edgar* by som thousands: So that som other account is to bee made concerning *Hides*, which is not to bee handled in this place.

[d] *Mss. penes Camerarios Scaccarii.*

[e] *In Brit. pag.* 114.

Hereunto belong's that of *Huntingdon*, touching King *Canutus* and his Son *Harald*. *In the daies of Harald* (saith hee) *as also in the time of his Father, eight Marks were paid by everie Port for* XVI *Ships*. In the like manner, *Hoveden* saith, *there was a Tax imposed which was paid for the maintenance of the Navie*, when King *Canutus* and King *Edmond* made an agreement in an Isle in the midst of *Severn*, called *Oleney*. Moreover, *Huntingdon* write's,

that 11048 *pounds were raiſed* by *Hardecanute* King of *England*, before hee had reigned two years, *for thirtie two Ships* (that is to ſay, for the building of two and thirtie Ships.) *Hee gave Command alſo* (as [f] *Matthew Weſtminſter* ſaith) *that eight marks ſhould bee paid to everie Rower of his Navie, and ten marks to each Commander, out of all England.* Hee ſaith again alſo of the ſame King; *that bee appointed Officers through all parts of the Kingdom, to collect the Tax impoſed, without favouring any, and therewith to provide all things neceſſarie for his Forces at Sea.* And *Florentius* ſaith; [g] *Hee gave command for the paying of eight marks to every Rower of his Navie, and twelve* (ſo wee read it in that Autor) *to everie Commander, out of all* England; *a Tax indeed ſo grievous, that ſcarce any man was able to pay it.* But theſe things ſpoken of *Canutus*, his ſon *Harald*, and *Hardecanute* relate perhaps unto that Tribute or Tax called *Danegeld*: which was paid yearly for the maintenance of the Navie and guarding the Territorie or Dominion by Sea.

[f] *Anno* 1040.

[g] *Anno eodem.*

Among the old Laws of *England* it appear's; *that the paiment of* Danegeld *was firſt impoſed becauſ of Pirates* (either Robbers or others invading the Sea.) *For, they infeſting the Countrie, waſted it as far as they were able. Therefore for the repreſſing of their inſolence, it was determined that an yearly paiment ſhould bee made of* **Danegeld**; *that is to ſay, twelve pence upon every hide through the whole Land, for the pay of thoſe that ſhould bee imploied to hinder the eruption of Pirates.* So wee read it in ſom [h] Copies; [i] others render it *Irruption.* But the other reading ſeem's to ſignifie, that this Tax was impoſed, for the raiſing and mainteining of Naval Forces, ſo to guard the Sea, that Pirates or Enemies might not bee able to make any eruption from the Shore on the other ſide of the Sea.

[h] *Apud Roger. Hoveden, part. 2. pag. 344. in Edit. Londin. pag. 603. in Edit. Francofurt.*

[i] *Apud G. Lambard. de priſcis Anglorum Legibus, fol. 128. & G. Camden. Brit. pa. 102.*

Sea. Nor can the word *Eruption* otherwiſe bee well put in that place. So that even that antient Dignitie of the *Count of the* Saxon *ſhore* (whereof wee have alreadie ſpoken) is therefore not obſcurely repreſented by him who commanded as *Admiral* over the Fleets of that Age. This Tribute or Tax had its beginning under King *Ethelred*. For, hee beeing brought into miſerable ſtreights by *Swane* King of *Denmark*, beeing forced to buy a Peace of him, hired XLV *Daniſh* Ships alſo by Agreement, for the guarding and ſecuring of his Dominion in the Sea, who were to receiv their pay yearly out of this Tribute for their maintenance. For the right underſtanding whereof, it is to bee obſerved out of the *Engliſh Saxon* Storie, that the Tribute or Tax uſually paid at that time to the *Danes*, was of more kindes then one. There was one Tribute or ſum of Monie, wherewith the *Engliſh-Saxons* were forced ſomtimes to buy Peace of ſuch as grievouſly infeſted the Iland. But another was levied to pay the *Daniſh* Navie, which was hired to guard the Sea and defend the Sea-Coaſts. The firſt kinde of Tribute appear's by that of *Florentius* and *Hoveden*, in the year MVII. *Ethelred King of* England, *by the advice of his Lords, ſending Embaſſadors to the* Danes, *gave them Commiſſion to declare, that hee was willing to defray their Charges and pay them a Tribute upon this condition, that they would deſiſt from rapine, and eſtabliſh a firm Peace with him. To which demand of his they yielded. And from that time their charge was defraied by all* England, *and a Tribute paid, which amounted to* 36000 *pounds.* That is, hee effected this onely for the preſent, *that hee obteined a peace for a time by monie, which hee could not by Arms,* as *Florilegus* ſaith well. Four years after alſo, *all the great Lords of* England *of both Orders, met together at* London *before Eaſter, and there they ſtaid ſo long till paiment was made of the Tribute promiſed*

to the Danes, *amounting to fourtie eight thousand pounds*; which wee reade of likewise both in *Florentius* and [k] *Hoveden*. But this was paid to the intent, *that all* Danes *which were in the Kingdom, should in every place dwell peaceably by the English, and that both People should have as it were one heart and one soul*, as it is expressed by *Florilegus*. Other passages of the same kinde there are in the storie of that Age, yea and som of an elder date. Yet this first kinde of Tribute was not wont to bee paid yearly, but levied now and then, as occasion required. Notwithstanding it may bee true perhaps which [l] som write, that *Ethelred* in the aforesaid agreement of the year MVII *yielded to pay every year a Tribute of Thirtie six Thousand pounds to the* Danes, *for a longer continuation of the peace.* Wee read here that hee yielded or granted, but no where likewise that hee paid it. But as for the second kinde of Tribute, which was to bee paid (as wee have told you) for hire of the *Danish* Navie, it was a yearly Tribute, and levied at the same time, at least in the same year, (to wit, of our Lord MXII.) wherein these fourtie eight thousand pounds were paid to procure a peace. Nor was it limited by any set-summe of monie, but so much as would serv for victualling, and clothing the Forces at Sea. *Florentius* and *Hoveden* in the aforesaid year say; *After these things, upon paiment of the Tribute,* (meaning that of fourtie eight thousand pounds) *and a confirmation of the peace by Oaths, the* Danish *Navie which was before in a Bodie, was disposed and dispersed abroad afar off. But* XLV *ships remained with the King, and sware fidelitie to him, and promised to bee readie to defend* England *against Foreiners, upon condition that hee would provide them Victuals and Clothing.* This is related likewise in the *English-Saxon* Chronicles of the Abbie of [m] *Abingdon*; Ða ꝥ ꝫaꝼol ꝫæleꝛꝛ ꝑæꝛ ⁊ ꝼꝛið aþaꝛ aꝛꝑoꝛene ꝑæꝛon þa

[k] *Anno* 1012

[l] *Autor Chronici Melrosensis, Ms. in Bibliotheca Cottoniana.*

[m] *In Bibliotheca Cottoniana. Anno* 1012.

þa to ȝepoꝺe ȝe ꝺeȝne pioꝺȝpa he æn ȝeȝaꝺepooe pæȝ. Ða bugon to þam cynȝe oȝ þam heȝne ȝiȝ ⁊ ȝeopenȝiȝ ȝcypa. ⁊ him behetoꝺ þ hi polꝺon þyȝne eaꝺo healꝺan ⁊ he hi ȝeꝺan ȝceolꝺe ⁊ ȝcyꝺoꝺn; That is, *the Tribute beeing paid, and Oaths of Amitie taken, the Armie* (or Navie) *which was before in a Bodie, was diſperſed abroad. But fourtie five ſhips of that Navie remained with the King, and promiſed upon Oath to bee readie for the defence of this Land, upon condition the King did finde them Victuals and Cloathing.* *Swane* was at that time King of *Denmark*, with whom *Ethelred* made this agreement. But both the kindes of paiment aforementioned, were called Danegelꝺ, *Danegeld*, or *Danageld*, that is to ſay, *Daniſh Tribute*. The firſt kinde is expreſsly intimated by this name in [n] *Joannes Sarisburienſis*; where hee ſaith, *Swane waſted and ſpoiled the Iſland of* Britain, *the greateſt part whereof hee had in his poſſeſſion, and afflicted the Members of Chriſt with many perſecutions, by an impoſition of Tribute, which in the Engliſh Tongue they call* Danageld. But the ſecond kinde which was paid for the maintenance of the Forces by Sea was called likewiſe by the ſame name, both becauſ it was occaſioned by the agreement with the *Danes*, as alſo becauſ it was wont to bee paid to the *Daniſh Fleet*, that was hired to guard the Territorie by Sea. For which cauſ alſo it reteined the ſame name, not onely under theſe *Daniſh* Kings, *Canutus*, *Harold* the firſt, and *Hardecanutus*, but alſo under the *Engliſh-Saxon* or *Engliſh*. And that this which wee have ſpoken was the Original hereof, is affirm'd alſo by *Ingulphus* the Abbot of *Crowland*; a witneſs beyond all exception, who lived at that time. Hee ſpeaking of the affairs of *Edward* the Confeſſor, ſaith, [o] *In the year* MLI. (which was the tenth of King *Edward*) *in regard the Earth did not bring forth its Fruits in ſuch plentie as it was* wont

[n] *In Polycratico, ſeu de Nugis Curialium, lib. 8. cap. 21.*

[o] *Edit. Londin. pag. 510. Francofurt. 897.*

wont, but devoured very many people by famine, insomuch that many Thousands of men died through the scarcitie of Corn, and want of Bread; therefore the most pious King Edward, *beeing moved with compassion towards the people, released that most grievous Tribute called* **Danigeld**, *to all* England *for ever. It is reported by som, that this most Religious King beeing brought by his Officers into the* Exchequer, *to see the* **Danigeld** *that was collected, and to take a view of so vast an heap of treasure, stood amazed at the first sight, protesting that hee beheld the Divel dancing upon the heap of monie, & extremely rejoycing; whereupon hee immediately commanded to restore it to the former Owners, and would not keep one jot of so cruel an exaction; but remitted it for ever, to wit, in the thirtie eighth year after* Swane *King of* Denmark *commanded it to bee paid every year to his Navie, in the time of his Father Ethelred.* By dis-counting 38 years from the year 1051. that year 1012. is sufficiently manifest, wherein the beginning of this *Danegeld* is placed, according to that which hath been alreadie spoken. Nor is it any prejudice at all, that there seem's perhaps to bee one year over and above. For, such as are verst in the Chronicles of the Monks, know well enough, that differences of that kinde are very frequent among them, especially by reason of their careless confounding of the years of our Lord, and of the Kings, whose beginnings do variously differ, as every man know's. Nor is it probable, that they were sufficiently agreed touching the Tribute and Taxes before the next, or one thousand and thirteenth year. For, concerning that year, *Florentius*, *Hoveden*, and others speak expressly thus; *In the mean time the Tyrant* Swane *gave command to make readie Provisions in abundance for his Navie, and for paiment of an almost intolerable Tribute. In like manner* Turkillus *sent out his commands every where; that it should bee paid to his Fleet,*

which

which lay at **Grenewich.** That Fleet of XLV. ships rode now and then in the Thames neer *Grenewich*, and then first received their promised pay. That is, in that very year, which beeing discounted is the Thirtie eight year, as *Ingulphus* would have it: wherefore its beginning was not ill placed in that year. Without all question, that *Ingulphus* was a Courtier in the time of King *William* the first, or a man of no mean account, at the time wherein that was don which hee relate's: so that especial credit is to bee given him in this particular. Whereas also hee saith, that King *Edward* remitted *Danegeld* for ever, the same thing is affirmed also by *Roger Hoveden*, and *Matthew the Monk of Westminster*; who saith, *In the year of Grace* MLI. *King* Edward *absolved the people of* England *from that most grievous Tribute of* 38 *thousand pounds, which was usually paid to the* Danish *Auxiliaries, during his Father's Reign.* Whereof wee read also in [p] *Matthew Paris.* But *Hoveden* saith, *K. Edward absolved the people of* England *from that grievous Tribute, in the thirtie eight year after that his Father K.* Ethelred *had commanded it to bee paid to the* Danish *Souldiers.* Others there are also that write to the same purpose. Som of the [q] *English-Saxon* Chronicles place the same thing in the following year, and so affirm, that there intervened 39 years from the beginning of this Tribute (which also they call Heregyld or *Heregild*, that is, a *Militarie* or *Naval Tribute*) to that abolishment of it by King *Edward*; Nevertheless, as to what concern's its beginning, they agree with *Ingulphus* and *Hoveden*, to wit, in the year MLII those Chronicles render it thus; Aleðe Saðpard cyng ꝥ Heregyld ꝥ Æþelred cyng ær artealde. ꝥ þær on þam nigon ⁊ þrittigoþan geare þær þe heht on gannon hæfde. That is to say, K. Edward *abolished that Militarie Tribute, or* Here-

p *Hist. minor. Ms. in Bibliothecâ Cottonianâ.*

q *Ms. in Bibliothecâ Cottonianâ. Compacti cum Guil. Gisburnensis Annalibus.*

gild, *which had been formerly impoſed by K.* Ethelred, *to wit, in the nine and thirtieth year after it began.* But yet in the Autor of that [r] *Dialogue concerning the Exchequer*, written in the time of K. *Henrie* the ſecond, (commonly ſuppoſed to have been *Gervaſius Tilburienſis*) wee read it was paid yearly even till the time of K. *William* the firſt or the *Norman* Conqueſt; that is to ſay, for fourteen years compleat, immediately after that abolithment. For, ſo long K. *Edward* reigned, whom that *William* ſucceeded. The Autor's words are theſe; *The Pirats of the adjacent Iſlands, having made an irruption, and ſpoiling the Sea-Coaſts, carried away Gold, Silver, and all things of any value. But aſſoon as the King and his Subjects ſet forth any preparations of Warr, for the defence of their Nation, they preſently fled away by Sea. But the chief among them, and ever more inclined to miſchief, was that warlike and populous Nation of the* Danes, *who beſides their ordinarie deſire of prey; preſſed on the more furiouſly, becauſ they laid claim to ſomwhat of antient Right in the Government of the Kingdom, as the* Britiſh *Hiſtorie relate's more at large. Therefore for the repelling of them, it was ordeined by the Kings of* England, *that two ſhillings ſilver upon everie Hide of Land ſhould by a kinde of Cuſtom for ever bee paid for the maintenance of valiant men, who by ſcouting about continually, and guarding the Sea-Coaſts, might repreſs the Invaſion of Enemies. And in regard this Revenue was appointed chiefly becauſ of the* Danes, *therefore it was called* Danegeld. *And thereupon it was paid by yearly Cuſtom* (as hath been ſaid) *under the* Engliſh *Kings, until the time of* K. William *the firſt, who was of the* Norman *Stock and Nation.* So that Autor, who would have this Tribute to derive its name from the *Danes*, as if the Navie had been mainteined thereby chiefly to drive them from the Coaſts of *England*. But queſtionleſs, the firſt reaſon of the name, is to bee received, as it hath

[r] *Ms. Penès Camerarios Scaccarii, c. 27. Idem habetur Dialogus etiam in Codice Rubro, penes Rememoratorem Regis.*

hath been alleged out of the paſſages above mentioned; though afterwards there was a Subſidie raiſed and Tribute paid for the like Fleet, conſiſting of ſuch as were not *Danes*, or of *Engliſh*, for the repelling of the *Danes* themſelvs, which was not improperly called by the ſame name. Touching the paiment hereof after the *Norman* Conqueſt, I ſhall add more [r] by and by. But as concerning what hee ſaith here, that two ſhillings ſilver upon everie *Hide* were wont to bee paid yearly for the raiſing of this Tribute, the ſame is affirmed alſo by other antient Autors, as [t] *Roger Hoveden*, and [u] *Matthew Paris*: So that theſe men make the paiment double to that which is before alleged out of the Laws of the *Engliſh-Saxons*. The yearly paiment of this Tribute is valued alſo by *Matthew of Weſtminſter*, & *Matthew Paris*, at thirtie eight thouſand pounds, as appear's by the particulars alreadie cited: which truly was written by them with very little diſcretion. Nor have they dealt any better, who ſet down that paiment at the rate of thirtie thouſand pounds, as the Autor of the Chronicle called [x] *Chronicum Melroſenſe*. For, at what rate ſoêver that Tribute was paid to the King, according to the alteration of times, it appear's for certain, that the Stipends uſually allowed to the *Daniſh* Fleet were ſo uncertain, that they were ſet ſomtimes higher, ſomtimes lower (as wee muſt ſuppoſe it could not otherwiſe happen) according to the number of Ships and Forces that were neceſſarie for the Guard of the Sea. Of which alſo there are examples among Hiſtorians. *Florentius* in the year MXIV. ſaith, K. Ethelred *gave command, that the Tribute amounting to thirtie thouſand pounds ſhould bee levied for the Fleet which lay at* Grenewich; So alſo *Hoveden*. But the [y] *Engliſh-Saxon* Chronicles of the Abbie of *Abingdon* ſay of the ſame year; Se cyng het

[r] *Cap.* 15.

[t] *Edit. Londin. pag.* 276. *Edit. Francofurt. pag.* 482.

[u] *Hiſt. minore Ms. in* Bibliothecâ Cottonianâ; *in Stephani R. initiis.*

[x] *Ms. ibid.*

[y] *Ms. in* Bibliothecâ Cottonianâ.

heꝛ ꝫyldan þam ħeꝛe ðe on ꝫꝛenaþic læiꝫ XXI. þuꝛend pund. *The King commanded that* 21000[l] *should bee paid to his Armie*; (For so that Fleet is called every where in English Saxon) *which rode at* Grenewich. Here (you see) is no small difference in the number of pounds. But howsoëver, if it bee to bee conceived of the yearly Tax or Tribute, then it was far less this year then it is reckoned by those Monks, who speak of thirtie eight thousand pounds. Four years after, in the Reign of King *Canutus*, (who was a *Dane*) a far greater summe of Monie was raised for the maintenance of this Fleet. That *Florentius*, whom wee have often cited, saith; *In this year*, (that is, MXVIII. *Seventie two thousand pounds out of all* England, *and one thousand and fiftie pounds out of* London, *were paid to the* Danish *Fleet*; *and there remained fourtie ships with* K. Canutus. *But the rest were returned to* Denmark. Of which year *Hoveden* speak's thus; *Out of all* England *seventie two*, *and out of* London 410 *pounds were paid to the* Danish *Armie or Fleet. And there remained, &c.* They differ about the Summe, not the Thing, wherein they agree with the *English-Saxon* Chronicles before-mentioned. Yet these altogether speak contrarie to that accompt of the certain summes, as it is set down by the aforesaid Monks. But [z] *Matthew Paris* and *Matthew Westminster* say of the same Time, *that* Cnute *sent home the* Danish *Fleet*, *and Stipendarie Souldiers*, (except fourtie ships, as appear's by what hath been said alreadie) *having paid them out of all* England *eightie two thousand pounds in silver*. Also, in the second year of King *Hardecnute*, *a Tax was levied for the* Danish *Armie or Fleet*, *amounting to* 21000 *pounds*, *and* 89 *pounds*, as *Huntingdon* tell's us. All which particulars do, I suppose, sufficiently demonstrate, that the *Danish* Tribute here mentioned was not fixed to any certain

[z] *Histor. Minor. Ms. in* Bibliothecâ Cottonianâ.

certain ſumme of yearly paiment; and alſo that an huge ſumme of monie was wont to bee paid yearly at that time to the Kings of *England*, for the Guard of the Sea, (for, to what purpoſe elſ was that Fleet alwaies kept, and ſo great Taxes levied every year for the maintenance thereof?) But in the Reign of King *Henrie* the ſecond, the name of *Danegeld* grew out of uſe, Tributes or Taxes beeing uſually paid ſtill, notwithſtanding by other names that are very well known, for the Guarding of the Sea; as wee ſhall ſhew by and by. But they are extremely miſtaken, even they who agree either with *John*[a] *Bramton* the Abbot of *Jorvaux*, or ſom other Autor out of whom hee wrote it, or any others of that kinde, in deriving the Original of that yearly *Danegeld*, ſo often mentioned every where, from the former kinde of Tribute, which was paid to the *Danes*, for the procuring of a peace; and they alſo who[b] would have the Warr to have been undertaken by the *Danes* and *Saxons* againſt the *Britains*, becauſ they denied them a freedom of Navigation, and that the end thereof was, that this Tribute was upon that accompt impoſed upon the Nation when it was ſubdued.

[a] *Ms. in* Bibliothecâ Cottonianâ, *anno* 13. *Ethelredi Regis, ſeu Chriſti* 991. *pa.* 57.

[b] *Apud Jacob. Thuanum. Hiſtoriar. li.* 95.

Now, as concerning the *Duties of Fiduciarie Clients or Vaſſals*, wont to bee paid in that Age for Naval Expeditions and the Guard of the Sea, wee have ſet them down among thoſe particulars which were ſpoken of King *Edgar* in the former Chapter. The Pettie Kings or Lords of the neighboring Iſles were bound to him by Oath to bee readie at his command to ſerv him by Sea and Land. And in that famous Breviarie or Regiſter of *England* called[c] **Domesday**, (conteining very many Cuſtoms in uſe among the *Engliſh-Saxons*, beſides the aſſeſſment of the Provinces, and written in

[c] *Ms.* penès Camerarios Scaccarii.

the time of *William* the first) wee read thus; *It is a Custom at* Warwick, *if the King went by Sea against his Enemies, to send him either* IV. *Batsueins* (Sea-souldiers or Rowers) *or elſ* IV. *pounds in monie.* And at Excester, *when hee made any Expedition by Land or by Sea, this Citie served after the rate of* V. *Hides of Land.* **Barnestaple, Lydeford,** and **Totenais** *served as far as that Citie.* That is, these three Towns paid as much as *Excester* alone. Moreover, *Gloceſter* yielded XXXVI. *Dicres of Iron and* C. *iron Rods fitted to make nails for the King's ſhips. Leiceſter* also, *if the* King *went against his Enemies by Sea, sent him four horses from that Town to* London, *to carrie Arms or other neceſſaries.* Concerning **Lewes** also, a chief Town in *Sussex*; *there* K. Edward (the Confessor) *had* CXXVII. *Burgers at his service. Their Custom was, if the* King *went not himself in person, but sent others to guard the Sea, then they collected* XX. *Shillings of every man, of what Countrie soever hee were, and provided men who were to look to the Arms on shipboard.* Here very expreſs mention is made of the defence or Guardianship of the Sea it self. And in *Colchester*, an eminent Town of *Essex*, wee finde it was the Custom of that Age, *to pay out of every houſ six pence a year, that was able to pay it, for maintenance of the* King's *souldiers upon an Expedition by Land or Sea, &c. And this ought to bee the rate, if the* King *shall entertain souldiers, or make any Expedition.* All these particulars are in that Regiſter: And others there are in it of the same kinde. But an Expedition by Sea signified in these testimonies, not a Warr to bee undertaken for subduing the Dominions of their neighbors lands, but most clearly a preparation and enterprise of Warr, for the guarding, scouring, and keeping the Sea, as a part of the Empire of *Britain*: As it sufficiently appear's out of the Histories

of

of that time. For, wee do not reade, that our *Engliſh-Saxons* or *Danes* had any other quarrel at that time, with any of their Neighbors whatſoëver, unleſs it concerned either the *Britiſh* Iſlands or the Sea belonging thereunto. Which alſo is eſpecially to bee conſider'd.

The Teſtimonies of Edgar *and* Canutus, *Kings of* England, *with others expreſsly declaring the* Dominion *which they and their predeceſſors had over* the Sea; *together with an obſervation touching the Nations which in that age were ſeated upon the* oppoſite Shore.

CHAP. XII.

THat wee may at length ſet an end to that fourfold diſtribution which wee made of the Teſtimonies of that Age, let us in the laſt place add the expreſs determinations of King *Edgar* and *Canutus* concerning their own Dominion over the Sea. As for *Edgar*, the title which hee commonly uſed, ran thus; [a] *I* Edgar *Soveraign Lord of all* Albion, *and of the Maritim or Inſular Kings inhabiting round about.* So hee make's the bodie of the *Britiſh* Empire to comprehend all the Maritim Kingdoms that lay about, that is to ſay, all that are Situate in the *Britiſh* Sea. And this hee more plainly declare's in the Charter or Deed by which hee ſetled revenues on the Cathedral Church of *Worceſter*, in the year DCCCCLXIV; if ſo bee the copie were rightly rendred by thoſe who many years ſince printed ſo much of it as concern's this title. The words are theſe, [b] *Altitonantis Dei largifluâ clementia qui eſt Rex Regum, Ego Edgarus*

[a] *Apud Guil. Malmsbur. de geſt. Regum. lib. 2. cap. 8.*

[b] Inſpeximus *in Rot. Pat. 1. Ed. 4. part. 6.* Sic habetur apud *Joannem Dee in Monarch. Britannic. pag. 58. & 60. And in* Purchas *his Pilgrimage, part. 3. lib. 3. cap. 19. pag. 619.*

Edgarus Anglorum Basileus omniúmque Regum insularum, Oceaníque Britanniani circumjacentis (to *John* **Dee**, a man very well seen in most parts of Learning, did read it a good while since, save onely that in stead of (*Britanniam*) hee hath (*Britanniani*) while [c] others reade, *Insularum Oceani quæ Britanniam circumjacent*) *cunctarúmque nationum quæ infra eam includuntur Imperator & Dominus; gratias ago ipsi Deo omnipotenti Regi meo qui meum imperium sic ampliavit & exaltavit super regnum patrum meorum; qui licèt Monarchiam totius Angliæ adepti sint à tempore Athelstani (qui primus regnum Anglorum & omnes nationes quæ Britanniam incolunt, sibi armis subegit) nullus tamen illorum ultra ejus fines imperium suum dilatare aggressus est. Mihi autem concessit propitia divinitas cum Anglorum imperio omnia regna Insularum Oceani cum suis ferociss̃imis regibus usque Norwegiam, maximámque partem Hiberniæ cum suâ nobiliss̃imâ civitate Dublinia, Anglorum regno subjugare. Quos etiam omnes meis imperiis colla subdere (Dei favente gratiâ) coëgi.*—**By the abundant goodnes of Almightie God who is the King of Kings, I** Edgar **King of** England, **and of all the Kings of the Islands, and of the Ocean lying round about** Britain, **and of all the Nations that are included within the circuit thereof, Supreme Lord and Governor, Do render thanks to the same Almightie God my King who hath enlarged my Empire thus, and exalted it above the Royal Estate of my Progenitors, who although they arrived to the Monarchie of all** England **ever since the time of** Athelstane (**who was the first that by force of Arms subdued the** English, **and all the Nations that inhabite** Britain) **yet none of them ever attempted to promote their Empire beyond the bounds thereof. But the divine goodnes hath favored**

mæ

[c] *Edward* **Coke**, *in his Preface* ad Commentariorum Juris, lib. 4. And *James Usher* Bishop of *Armagh*, *in Epistol.* Hibernicarum Sylloge, pag. 121. *ubi vide item*, p. 163.

mæ ſo far as beſide the Engliſh **Empire, to enable mæ to ſubdue all the Kingdoms of the Ilands in the Ocean With their moſt ſtout and mightie Kings, even as far as** Norway, **and the greateſt part of** Irland, **together With their moſt famous Citie of** Dublin. **All Which (by God's grace and aſsiſtance) I have ſubdued and made their necks to ſtoop under the yoke of my command.** Whereas hee ſaith, that none of his Progenitors had attempted to enlarge their Empire beyond the bounds of *Britain*, it muſt bee ſo underſtood, that it bee taken for the Northern and Weſtern bounds of the *Britiſh* Empire, as ſufficiently appear's by the mention of *Irland* and *Norway*. So that then more Iſlands than the name of *Britain* did comprehend, or than the Iſles of that Sea, together with the Sea it ſelf, were brought under his Dominion.

But King *Canutus* (or *Cnute*) hath left a teſtimonie alſo, whereby hee moſt expreſsly aſſerts the Sea to bee a part of his Dominion. Hee placing himſelf on a ſeat by the Sea ſide as it flowed upon *Southampton* Shore, having a minde to demonſtrate to his flatterers, that Kings themſelvs are but men, is reported to have made trial of the obedience of the Sea (it beeing flood) after this manner, **Thou, O Sea, art under my dominion, as the Land alſo upon Which I ſit is mine. And there never Was any that diſobeied my Command Without puniſhment. Therefore I command thæ not to aſcend up upon my Land, nor do thou preſume to Wet the feet or garments of thy Sovereign.** *But the Tide* (ſaith *Huntington*, and *Florilegus* who relate this ſtorie) *ſwelling as at other times, did very unmannerly wet not onely the feet, but legs of his Majeſtie.* Whereupon the King leaping up

proclaimed with his own mouth none to bee worthy the name of King, but him alone who command's both the Sea and land, and they obey. And from that time hee refuſed to wear his Crown of Gold; conſecrating it to a Crucifix. In the mean time, hee here openly profeſſed himſelf to bee the Soveraign of the Sea as well as of the land. Hereunto may bee added ſom teſtimonies of other Writers, which although they are of a later date than the Kingdom of the *Engliſh-Saxons*, yet they are tranſmitted to poſteritie by the hands of ſuch as were perfectly acquainted with the Engliſh Hiſtorie, and by the Tradition of their Anceſtors well informed of the moſt authentick Opinions and Reſolvs concerning the Engliſh Dominion over the Sea. *Geoffrie Chaucer* (who was not onely the moſt famous Poët of his time, but, as Learning went in thoſe daies, a very well accompliſht Scholar) in one of his *Canterburie* Tales, bring's in his *Man of Law* telling a ſtorie which hee would have relate to the time of *Alla* King of *Northumberland*, who reigned thirtie years; and his Reign began in the year of out Lord DLIX. In this Tale there is brought in a Ladie, called *Conſtantia*, the Daughter of I know not what Roman Emperor, married to the King of *Syria*; driven ſhee was by weather to a place which lay under the command of a Fortreſs upon the Shore of *Northumberland*, and there the Ship ran aground; ſhee was a Chriſtian, baniſhed for her Religion, and there taken Priſoner by the Commander of that Fortreſs. In this Relation of the ſad adventures of *Conſtantia*, hee ſaith (what indeed is true) that Chriſtian Religion was not received into any part of that Territorie, but that *Pagans* had over-run and did hold thoſe Northern Countries under their Dominion as well by Sea as Land. His words to this purpoſe are theſe,

In

In all that lond durſten non Chriſten rout;
All Chriſten folk bæn fled from the Countre
Through Paynims that conquer'd all about
The plagues of Northumberland **by land & See.**

Hee ſaid diſcreetly, that the neighboring Sea fell to the Conquerers of this Iſle as well as the Land, knowing what was the reſolution and generally received opinion of his Anceſtors concerning that matter Hee lived two hundred and thirtie years ago in the time of *Richard* the Second. Nor is it any prejudice to this autoritie, that the other things there related are fabulous; For wee know that out of the Fables of *Heliodorus*, *Achilles*, *Tatius*, *Theodorus Prodromus*, *Euſtathius*, and ſuch others, whether of an amorous or any other ſtrain, ſomtimes many uſeful obſervations may bee gathered concerning the cuſtoms, manners, and received opinions, as well of the men among whom they are feigned to bee acted, as of the times to which they are related. *John Harding* alſo, who, in the time of *Edward* the Fourth, wrote an Hiſtorie of the affairs of *England* in verſ, when hee reckons up thoſe Princes that ſware fealtie to King *Canutus* for the Lands which they held of him,[d] hee adds

[d] *Chap.* 117.

So did the Kings of Wales **of high parage,**
And all the North-weſt Ocean
For their kingdoms and for their lands than;

That is to ſay, *the ſame was don at that time by the greateſt Kings of* Wales, *and of all the North-weſtern Sea, for their reſpective Kingdoms and Territories.* Thus *Canutus* was King of the Kings of that Sea, which hee himſelf alſo ſufficiently declares, when hee expreſsly affirms in what was before related, that the Sea it ſelf was under his

Dominion. And ſo much for teſtimonies, to prove that the *Britiſh* Sea hath been poſſeſſed not onely by the *Britains*, after they had caſt off the *Roman* yoke, but alſo by the *Engliſh-Saxon*, and *Daniſh* Kings.

Moreover, it ſeem's they did uſe to take a kinde of courſ for the ſtrengthning and preſervation of their Dominion, both by Sea and Land, as the antient *Germans* (of whom both *Danes* and *Saxons* are a part) were wont to do for the defence of their midland Cities. *Among them* (ſaith [e] *Cæſar*) *it was the higheſt glory to make very large depopulations, and lay all the Countrie round about them waſte; meaſuring their honor by their diſtance from any neighbor, and accounting it the onely token of valor when none durſt plant themſelvs within their reach; and beſides, they thought by this means to render themſelvs more ſecure by removing the fear of any ſudden incurſion.* So it hath been the manner of thoſe that at any time have made themſelvs Maſters of the Kingdom of *Britain*, to extend their Dominion in the circumambient Sea to the largeſt Circuit, ſcouring the Seas about, and keeping other Nations at a diſtance, as it were from the Wall or Precinct of the Iſland. Nor were thoſe *German* Cities more Maſters of that waſte part of the Countrie that lay about them, then the King's of *Britain* were over the Sea of the ſame name. But as wee obſerved before of the *Scots* and *Picts*, in the time of the *Romans*, ſo here alſo it is to bee noted of the *Norwegians* or *Normans*, (for many times they are to bee taken for one and the ſame people) and other Northern Nations, That thoſe *Britiſh* Iſles which are ſituated in the Weſt and Northern Sea, were ſomtimes ſo poſſeſſed by the *Scots* and *Picts*, as alſo by the *Norwegians*, and ſuch others as infeſted the Northern Sea, and invaded the Iſles lying between them and *Britain*, that it is not to bee doubt-

[e] *De Bello Gallico*, l. 6.

doubted, but they also according to the various alteration of their Dominions by Land, succeeded one another for that interval of time, in the possession of a proportionable part of the Sea also, as an Appendant to every one of the shores of *Britain*. The *Scots* (saith an [f] unknown Autor, speaking of the year DCCCXLVI) *for many years became Tributaries to the* Normans, *who without any resistance entred and settled themselvs in the Isles lying round about.* And as touching the Naval affairs of the *Normans* in our Sea, there are many passages to bee seen in *Regino* the Abbat, *Aimoinus* and other Writers of that Age. But in the mean time it is sufficiently manifest, that as by reason of the tumultuarie & unsetled posture of affairs in those daies, the Dominion of the Island it self was very often tossed to and fro; so also the Dominion of the Sea was in like manner attempted, disturbed, invaded, recovered, and defended, as that which did inseparably follow the Dominion and Soveraigntie of the Island. Wee are not ignorant that in the *French* Histories there are now and then som passages that speak of their Naval power in this Age, which are collected by [g] *Popelinerius*. But there is nothing to bee gathered from them that may set forth the least sign or shadow of a Soveraigntie or Dominion over the Sea. Very few indeed are to bee found, and such as either concern onely the defending the mouths of their Rivers against the *Normans* and *Danes* then roving up and down our Sea, or the subduing of the *Friezlanders*, and som of the Neighbor-Nations. Whereunto also som other passages relate, which wee shall mention by and by, when wee com to speak of the Admirals of *France*.

[f] *In Gestis Normannorum, pag. 2.* Vide *Aimoinum, de Gestis Francorum, lib. 4. ca. 90. & 100. de Normannis.*

[g] L'Amiral de France, chap. 6. & 7.

Several Testimonies concerning the Sea-Dominion of the Kings of England, since the Norman Conquest, *set forth in* General Heads.

Chap. XIII.

FOllowing the Order and Method of our Enquirie, in the next place wee treat of the Sea-Dominion of the *Britains*, since the coming of the *Normans* into *England*. And in the first place our Discourse shall bee of the Dominion of the *English* Sea, or that which flow's between *England* and the opposite shores or Havens of the Neighbor-Nations. Now whereas it is confessed on all hands, that all Dominion is chiefly founded upon just possession or occupation, and its continuance, and that possession is not supposed to bee had, by the act either of the minde or bodie singly and apart (as [a] *Paulus* long since hath well determined) but is most firmly gotten and retained by the joint concurrence of minde and bodie; whereupon it is distinguished into [b] *Civil*, that is, where there is a right or title by Law, and *Natural* or *Corporal*, and it is requisite that this Dominion receiv a signal confirmation by a long continued assent, a free and publick confession or acknowledgment of such neighbors whom it most concern's: First then, as concerning the *Corporal* or *Natural* possession of this Sea, as well as that which is *Civil* or by *Law*, and is retained by the act of the minde, wee shall give you very ample Testimonies since the time of the coming in of the *Normans*. And in

[a] *L.3.F.tit. de Acquir.vel amitt. possessione.*

[b] *Hugo Donellus, de Jure Civili, l.5. Cujacius, observat.l.9.ca. 37. l.10. C. tit. de acquir. possess.& retinendâ.*

in the next place, wee will shew how this Dominion of the Kings of *England* hath been acknowledged by those Foreign or Neighbor-Nations, whom it most concern's. But forasmuch as what wee shall thus speak of the *English* Sea in general, will chiefly relate to the *Southern* and *Eastern*, or that which hath the *English* shore on one side, and *France* and *Germanie* on the other, wee will therefore discourse severally of that which lie's to the West of *England*, and also of the *Scotish* Sea, or that which lie's more *Northerly*.

As concerning the possession of the *English* Sea, both *Corporal* and *Mental*, or *Civil*, continued for that space of time which wee now speak of, with the like Dominion arising and retained thereupon, there are divers notable and very clear testimonies thereof, which for Methods sake wee divide into eight heads; whereof

I. The *Custodie, Government*, or *Admiraltie* of the English Sea, as a *Territorie* or *Province* belonging to the King.

II. *The Dominion of those Islands* that lie before the *French* shore.

III. The *Leav of passage* through this Sea *granted* to *Foreiners upon request*.

IV. The *Libertie of Fishing* therein allowed upon courtesie to Foreiners and Neighbors, and the *Protection* given to Fisher-men.

V. Prescribing of *Laws* and *Limits* to *Foreiners*, who beeing in Hostilitie one with another, but both in amitie with the *English*, made Prize of each other in this Sea.

VI. The *Records* whereby this Dominion is expressly asserted by the By, as a most undoubt-

doubted right; and that not onely by the King, but by the Parlaments of *England*, when they debated of other matters.

VII. *The Commentaries of the Law of the Land, and common cuſtoms of the Nation*, which do either aſſert or at leaſt allow ſuch a Dominion.

VIII. Som antient *Teſtimonies of inferior note*.

All the teſtimonies almoſt that are comprehended in this Diviſion, are indeed domeſtick; but ſo publick, and of ſo approved credit, that hardly any thing can bee imagined, which might give a clearer proof of poſſeſsion whether *Civil*, as they call it, conſiſting in the act and intention of the minde, or *Natural*, which require's the preſence of the Bodie. As it will appear to any man that pleaſ to make enquirie. Eſpecially if hee add hereunto the judgment or acknowledgment of ſuch Forein Nations whom it chiefly concerned, whereof wee ſhall treat alſo by and by. But of theſe things ſeverally, and in order.

That

That the Kings of England, ſince the coming in of the *Normans*, *have perpetually enjoied the Dominion of the Sea flowing about them, is in the firſt place proved from the* Guard *or* Government *thereof, as of a* Province *or* Territorie; *that is to ſay, from the very Law of the* Engliſh Admiraltie.

CHAP. XIV.

AS concerning the Guard or Government of this Sea, there are three things therein that deſerv ſpecial conſideration. 1. *The bare mention and nature of the Guard of the Sea,* and of the *Guardians or Admirals* thereof, in publick Records and Hiſtories. 2. The *Tributes and Cuſtoms* impoſed, demanded or accuſtomed to bee paid *for, and in conſideration of the ſaid cuſtodie.* And laſtly, *the tenor and varietie of Commiſſions* belonging to this *Guard,* and *Engliſh Admiraltie,* or Government by Sea. Since the coming in of the *Normans*, there is frequent mention of a Guard or Government inſtituted for the defence and guarding of the Sea. Here call to minde thoſe obſervations touching this kinde of Guard, which have been alreadie gathered out of that Record or Breviarie of *England* called **Domesday.** And King *Henrie* the firſt, ſaith *Florentius* of *Worceſter, gave order to his* Butſecarli *to guard the Sea, and take care that no perſon from the parts of* Normandie, *approach the* Engliſh *Coaſts.* The ſame ſaith *Roger Hoveden*, in the very ſame words almoſt, ſave onely that the printed Copies err in put-

ting *Buzſecarlis* for *Butſecarlis*. Theſe *Butſecarli*, or **Buteſcarles**, in the old Engliſh Language, are Officers belonging to the Navie, or Sea-ſouldiers, as *Hute-ſecarli*, were Domeſtick Servants or Officers in Court. And that *to guard the Sea* here ſignified to ſecure the Sea it ſelf, not to defend the Sea-Coaſts (as ſomtimes, though ſeldom it did) with Land-forces, plainly appear's out of *Henrie* of *Huntingdon*, in whom it is clear, that the perſons who thus guarded the Sea were emploied by the King, to make Warr by Sea againſt *Robert* Duke of *Normandie*, who was then preparing an Expedition againſt *England*. Now thoſe publick Records are loſt, wherein the Roial Commiſsions for the delegation of this Command or Government were wont to bee regiſtred all that ſpace of time betwixt the coming in of the *Normans*, and the Reign of K. *John*. But from thence through all the ſucceeding ages unto this preſent time, it is as clear as day, that the Kings of *England* have been wont to conſtitute Governors or Commanders, who had the charge of guarding the Engliſh Sea, and were the Guardians or Governors thereof, in the ſame manner as if it had been ſom Province upon Land. Firſt of all there were [a] intruſted with the Government of the Sea, or the *Maritimæ* and *Marinæ*, the *Maritime* and *Marine* part of the Empire (underſtanding by thoſe words not onely ſom Countrie lying upon the Sea-Coaſts, but comprehending the *Britiſh* Sea it ſelf, though I confeſs it was not alwaies ſo) ſuch as were to guard and keep it, under the title (ſomtimes) of *Cuſtodes Navium*, Guardians of the ſhips, but more frequently *Cuſtodes Maritimæ*, or *Marinæ*, in the ſenſ aforeſaid. And in the time of *Henrie* the third, *Thomas de* **Moleton** is ſtyled [b] *Captain and Guardian of the Sea*, and hath autoritie given him

[a] *Rot. Pat. 6. Joannis R. Membr. 8. vide Rot. Pat. 8 Hen. 3. part. 1. M. 3. & 4. Clauſ. 9. Hen. 3. Membr. 15. Pat. 9 Hen. 3. part. 2. M. 9.*

[b] *Rot. Pat. 48 Hen. 3. part. 1. memb. 3. & Rot. Clauſ. 48 Hen. 3. Membran. 3.*

him *to guard the Sea and the Maritim parts* of the Eaſtern Shore. In the ſame King's Reign alſo, the Inhabitants of the Cinque-Ports are ſaid *to guard the* [c] *Coaſt of* England, *and the Sea.* So *Hugh de* **Crequeur** was *Warden of the* [d] *Cinque-ports and of the Sea in thoſe parts.* Afterward the title of Guardians or Wardens very often changed into that of Admirals. *Edward* the Firſt, ſaith *Thomas* of [e] *Walſingham*, *for the keeping of the Sea divided his Shipping into three Fleets, ſetting over them three Admirals, namely over the Ships at* Yarmouth *and the road thereabout* John de **Botetort**; *over thoſe at* Portſmouth, *William de* **Leyburn**; *and over the Weſtern and Iriſh Ships, a certain Iriſh Knight.* Moreover alſo, that *John de* **Butetort** is in the [f] Records of that time ſtyled *cuſtos Maritimæ*; as were others alſo. After this, in the Reign of *Edward* the Second, *three Admirals of the three ſeveral Coaſts of England* (ſaith [g] *Walſingham*) *had the guarding of the Sea, namely*, *Sir* John **Oturvin**, *Sir* Nicolas **Kyriel**, *Sir* John **Felton**. Wee finde moreover in our [h] publike Records, that the principal end of calling a Parlament in the fourteenth year of *Edward* the Third was, *De Treter ſur la gard de la pees de la terre, & de la Marche d'Eſcoce, & de la Meer*, i. e. That conſultation might bee had concerning keeping the peace of the Land, alſo of the Borders of *Scotland*, and of the *Sea.* The ſame regard they had to the defence of the Sea, as of the Iſland or Land-Province: giving us to underſtand, that the Land and Sea together made one entire bodie of the Kingdom of *England.* Other evidences of the ſame nature wee finde in the [i] Records of Parlament of the ſame King's time, or in the conſultations of the eſtates of the Realm had about this matter, that whilſt they Treat indifferently *De la ſaufegard de la terre*, concerning *the ſafeguard* or *defence of*

[c] *Rot. Pat. 27. Hen. 3. part. 1 Membran. 3. in dorſo.*
[d] *Rot. Pat. 19. Hen. 3. Memb. 14.*
[e] *22. Ed. 1. ſeu anno 1295.*
[f] *Rot. pat. 23. Edw. 1. m. 5.*
[g] *18. Ed. 2. ſeu ann. 1326. & vide Rot. Pat. 19. Ed. 2. part. 1. Mem. 12. & 20. Ed. 2. Mem. 22.*
[h] *Rot. Parlam. 14. Ed. 3. art. 2.*
[i] *Rot. Parlam. 13. Ed. 3. part. 1. art. 6, 9. & 11. & Rot. Parlam. 20. Ed. 3. artic. 21.*

the Land or Iſland, and *de la ſaufeguard de la Mere, the ſafeguard of the Sea*, they ſeem ſufficiently to declare, beeing well inform'd by their Anceſtors, that the Dominion of this as well as of that, did belong unto the Crown of *England*. For the buſineſs debated by them was not onely how to provide a Navie to make reſiſtance againſt their Enemies by Sea, but for the guarding the Sea it ſelf as well as the ſecuring of the Iſle, and ſo for the maintaining the antient right of their King in both. In the time of *Richard* the Second, *Hugh* **Calverlee** *was made Admiral of the Sea* (ſaith [k] *Walſingham*) *and* Mr Thomas **Percie** *joined in Commiſsion with him to ſcour the Roades of the Sea for one year.* And in the Reign of the ſame King, and likewiſe of the two ſucceeding *Henries* the Fourth and the Fifth, debate was had in [l] Parlament *about the Guard of the Sea.* In the Reign of *Henrie* the Sixth, the *Guard* [m] *of the Sea* was with a numerous Navie Committed to *Richard* Earl of *Saliſburie*, *John* Earl of *Shrewsburie*, *John* Earl of *Worceſter*, and *James* Earl of *Wilts*, to whom was added Baron *Sturton*; and afterward to *John* Duke of [n] *Exceſter.* And in thoſe daies it was uſual to procure King's Letters commonly called, in the language of the Law, *Protectiones*; whereby Privilege and exemption from all ſuits was granted to thoſe that were emploied in this kinde of Guard or Defence of the Sea, or that ſpent their time *ſuper ſalvâ cuſtodiâ & defenſione Maris*, [o] **for the ſafeguarding and defence of the Sea**, as the form of the words hath it, which wee frequently finde in the *Archives*. Moreover, in the Acts of Parlament of the ſame King's Reign, mention is made *of the ſafeguarding of the Sea*, or *de la ſaufegard de la mier*, as of a thing commonly known, and for which it was the Cuſtom of the *Engliſh* to make as diligent proviſion as for the Govern-

[k] 2. *Rich.* 2.
[l] *Rot. Parlam.* 2. *Rich.* 2. *part.* 2 *art.* 39. & 7. *Rich.* 2. *Membran.* 9. *art.* 13. & 14. & 7. *Hen.* 4. *art.* 18. & 19. & 8. *Hen art.* 6.
[m] *Rot. Par.* 33. *Hen.* 6. *artic.* 27.
[n] *Rot. Franciæ*, 32. *Hen.* 6. *m.* 4. & 6. *&c.*
[o] *Stat.* 20. *Hen.* 6. *cap.* 1.

ment

ment of any Province or Countrie. And in the [P] twentieth year of the ſame King, the Commons preferr'd a Bill, that a ſtrong and well accompliſhed Navie might bee provided for the defence of the Sea, becauſ **It is thought fit be all the Commens of this Land that it is neceſſarie the See be kept.** Verie many other paſſages there are to the ſame purpoſe. *Geoffrie Chaucer* (who lived in the time of *Richard* the Second, and was a man verie knowing in the affairs of his Countrie) among other moſt elegant and lively characters of ſeveral ſorts of men, written in the *Engliſh* Tongue, deſcribe's the humor of an *Engliſh* Merchant of that time, how that his deſire above all things is, that the Sea bee well guarded, never left deſtitute of ſuch protection as may keep it ſafe and quiet. Which hee ſpeak's to ſet out the whole generation of Merchants in that age, whoſe cuſtom it was to bee ſollicitous for traffick above all things, and conſequently about the Sea it ſelf, which would not afford them ſafe Voyages, did not the Kings of *England*, as Sovereigns thereof, according to their Right and Cuſtom, provide for the ſecuritie of this, as a Province under their Protection. The words of *Chaucer* are theſe,

[P] *Rot. Parlam. 20. Hen. 9. Artic. 29.*

His reaſons ſpake hee full ſolemnely,
Shewing alway the encreaſ of his winning;
Hee would the See were kept for any thing
Betwixe Middleborough **and** Orewel.

Orewel is an Haven upon the Coaſts in *Suffolk*. *Middleborough* is in *Zealand*. The whole Sea that floweth between *Britain* and *Zealand* the *Engliſh* Merchants would have ſecured, this they were wont ſolemnly and unanimouſly to pray for, knowing that the Sea

was part of the Kingdom, and the Protection of them part of the dutie of the Kings of *England*. For, as concerning any Protection herein by any forrein Princes, any farther then in their own Harbors, or at the moſt within the winding Creeks between thoſe Iſlands which they poſſeſſed upon the Coaſts of *Germanie* or *Gallia Belgica*, there is nothing, as far as wee can finde, to bee gathered from any Teſtimonies of former Ages. In the ſucceeding Ages likewiſe, there is frequent mention of this kinde of Guard, Defence, and Government of the ſame Sea, as will hereafter more fully appear when wee com to ſpeak of *Tributes*, and of the *tenor and varietie of the Commiſsions* given to our Admirals. But now, it is to bee obſerved, that both the name and nature of this Guard is very well known, not onely by the uſe of the word both in the [q] *Imperial* and *Canon* [r] Law, wherein it denotes that the Guardian ought to take a diligent care of that thing, whereof hee is owner, who doth either lend it, or commit it to his over-ſight, but alſo by the common and obvious uſe which the *Engliſh* make of the ſame word in other Offices or Governments. For in thoſe daies of old, when the title of Guardians or Wardens of the Sea was more uſual, there were appointed *Wardens of the Ports*, even as at this day there are *Wardens of the Counties* (who are thoſe Commanders of Counties called *Sheriffs*, and in the uſual form and tenor of their Writ have *cuſtodiam comitatûs* **the Guard or Defence of the Countie committed to their charge**) *Wardens* or Keepers *of the Marches* or Borders, Keepers of Towers or Caſtles, Parks, Houſes, and the like. Yea, and the Lord Lievtenant of *Ireland* was eſpecially in the time of King [s] *John* and [t] *Henrie* the Third, ſtyled uſually Warden or *Keeper of Ireland*, and his Office

[q] *L. ff. tit. Commodati, §. 5. & 8.*
[r] *Extr. tit. de Officio Cuſtodis Eccleſiæ.*
[s] *Rot. Cart. 2. Joann. R. in Dorſ. & Rot. Pat. 17. Joannis.*
[t] *Rot. Pat. 3. Hen. 3. Membran. 4. &c.*

or

or dignitie, commonly called the Keeperſhip of *Ireland*; after the ſame manner as *John* Duke of *Bedford*, and *Humphrey* Duke of *Glocester*, whom *Henry* the fift during the time of his abſence in *France*, deputed to govern the Kingdom of *England*, by turns, were called *Cuſtodes Angliæ*, *Keepers of England*, as wee very often finde both in [u] Hiſtories and [x] Records. So *Arthur* Prince of *Wales* was made [y] *Keeper of England*, while *Henry* the ſeventh was beyond the Seas. So *Piers Gaveſton was keeper of England*, while *Edward* the ſecond remained in *France*. So were others alſo in like manner. The Governors alſo of the Iſlands of **Jarſey** and **Garneſey**, and the reſt that are ſituated in this **Sea**, who now are ſtyled *Governors*, *Keepers*, or *Captains*, were in [z] antient times called onely by the name of *Guardians*, or *Keepers*. This then beeing ſo, what reaſon have wee to think that our Anceſtors did not uſe the ſame Notion of Guardian or Keeper, and of guarding or keeping, in the name of the Guardian and the Guard of the Sea, which they were wont to uſe in the Guard and keeping of the Iſland, and in the other dignities or offices before mentioned? Doubtleſs, in all theſe the peculiar Dominion and Soveraigntie of him that conferr'd the Dignities, is ſo clearly ſignified and included, that his Dominion or Ownerſhip of the thing to bee kept and guarded, as well as Autoritie over the perſon dignified, is plainly implied in this Title. Nor is it to bee omitted, that in antient times before the autoritie of the high Admirals of *England* was ſufficiently eſtablished by our Kings, and ſetled ſo diſtinct, that the Command and Government of the Sea did belong onely to them, the Governors or Keepers of the Provinces whom wee call *Sheriffs* of the Counties, by virtue of their Office had alſo ſom

[u] *Th. Walſingham, ann.* 1420, *&c.*

[x] *Rot. Parl.* 8 *Hen.* 5. *&c.*

[y] *Rot. Pat.* 8 *Hen.* 7. *part.* 1.

[z] *Rot. Pat.* 3 *Hen.* 3. *in Junio*; Philippo de Albiniaco, *&c.*

Cuſtodie

Custodie or Command of part of that Sea which adjoined to their respective Provinces, as of a part of the Kingdom of *England*. Which truly (to let pass other proofs) is sufficiently evident by this, that many times in those daies, they who, by the Common Law of the Land, were wont, as at this day, to put in execution the Commands of the King in those places onely that were committed severally to their charge and custodie, did do the same also in the Sea it self as well as in any Land-Province belonging to him from whom they received their autoritie. For, by virtue of their ordinarie power derived from the King, and such as was founded upon the very same right by which they held the Government of the Countie or Province, they did oftentimes remove the King's Ships and Fleets from one Port to another by Sea, as through the Territorie of the Province that was committed to their charge. Which indeed is a thing wee hear not of in later times; but that so it was in the Reigns of King *Henrie* the third, and *Edward* the first, the Records[a] of those times do testifie. But afterwards, the Universal Custodie of the Sea, excepting onely what was extraordinarie, was committed by our Kings to the *high Admirals of England*; and to them alone or their Deputies, and apperteineth unto them now by an unquestionable right. But when any person is intrusted with that Guardianship or Custodie, the possession and dominion of the King who intrust's or give's him the Autoritie, is comprehended in that Government or Command; which also is confirmed by words most expres and home to the business in hand, that are to bee seen in a Libel, or Bill of Complaint[b], hereafter mentioned, which was exhibited by a great number of the neighbor-Na-

[a] *Rot. Claus. 7 Hen. 3. dors. 6. 14 H. 3. Memb. 22. & 17. in dors. Claus 17 H. 3. Membr. 7. in dors. Rot. Pat. 24 Ed. 1. Membr. 17. & Claus. 25 Ed. 1. Membr. 12. in Dorso &c.*

[b] *Chap.* XXVII. & XXVIII.

tions,

tions, to the Commissioners of our *Edward* the first, and *Philip the fair* King of *France*.

The Dominion of the English Sea asserted from those Tributes *or* Customs *that were wont to bee imposed, paid, and demanded, for the* Guard *or* Protection *thereof, after the* Norman *Conquest.*

CHAP. XV.

CONcerning the *Tributes* or *Customs* that were wont to bee imposed, paid, and demanded, for the *Guard of the English Sea*, there are very ample antient Testimonies, all along since the Reign of the *Normans*: And those things which have been alreadie mentioned touching the Guard of the Sea, do not a little confirm it. It is manifest, that the Tribute imposed, in the time of the *English-Saxons*, for the Guard of the Sea, which was called *Danegeld* (of whose Original and use wee have [a] alreadie spoken) was wont now and then to bee paid heretofore under the *Norman* Kings. After the words there cited out of the antient *Dialogue* touching the Exchequer, about the paiment thereof before the *Norman* Conquest, it immediately follow's thus in the same Dialogue: *In his Reign* (that is to say, the Reign of *William* the first) *the* Danes, *as well as other Robbers of Land and Sea, restrained the Invasions of Enemies; knowing this to bee true which is written,* When a strong man armed keep's his house, hee possesseth his goods in peace. *For they were not ignorant, that resolute and valiant men would not let injuries pass unrevenged. Therefore whereas the Land*

[a] *Chap.* 11.

had paid it a long time in the same King's Reign, they were unwilling to pay that every year, which had been exacted upon urgent necessitie in time of warr: But yet they would not have it wholly cashiered, because of sudden occasions. Therefore it was seldom paid in his Reign, or the Reign of his Successors; that is, onely then, when they either had or suspected a warr with Foreiners. And among the [b] old Laws of *England* wee finde that *William Rufus* requiring aid of the Barons for the regaining of Normandie out of the hands of his brother Robert, *sirnamed* **Curtehole**, *who was upon a Voiage to the Holy Land,* Danegeld *was granted to him, not established, nor confirmed by a Law*; that is to say, four shillings upon every *Hide* of Land, which were paid for defending the Dominion by Sea. For, that was the intent and end of *Danegeld*, according to its nature and original.

[b] *Apud Roger. Hovedenium in Annal. part. 2. pag. 344. Edit. Londin. & 603. in Edit. Francofurt. & apud G. Lambard. in Archæonomia pag. 128.*

Moreover, [c] *Roger Hoveden* saith expresly, that it was usually paid until the time of King *Stephen*. Hee speaking of the promisses which hee made at the time of his Coronation, saith, *Thirdly, hee promissed that hee would remit* Danegeld *for ever, that is, two shillings upon an Hide, which his Predecessors were wont to take every year.* The same also is affirmed by *Matthew Paris*, and [d] *Roger* of *Wendover*, out of whom the Chronicles set forth by *Matthew* until the nineteenth year of *Henry* the third, or the year of our Lord MCCXXXV. were wholly taken. They say of King *Stephen*, *Tertiò vovit quòd* **Danegeld**, *id est, & qualibet ydâ terræ duos solidos, quos Antecessores ejus consueverant accipere in æternum annis singulis condonaret.* So indeed wee read it in the [e] Manuscript Books of this *Matthew*, whereby the Printed ones are to bee amended, who render it onely thus: *Tertiò vovit, quòd Antecessores ejus accipere consueverant, in æternum annis singulis condonaret.* But this also is added by *Hoveden*; *These especially*

[c] *Annal. part. 1. pag. 276. Edit. Londin. pag. 482. Edit. Francofurt.*

[d] *Ms.* in bibliothecâ Cottonianâ.

[e] In Biblioth. Cottoniana.

especially, and divers other things hee promissed before God, but kept none of them, as wee are told likewise by *Paris* and *Wendover*: So that this Tribute was wont to bee paid in the Reigns of *William* the *first*, and the *second*, *Henrie* the *first*, and King *Stephen* also, for the guard of the Sea. And it appears by the accompts of the Exchequer, that it was paid somtimes in the time of *Henrie* the second. And after that it grew out of date, another cours was wont to bee taken very frequently, and used as the Custom of the Land, that Pay, and Provisions might not bee wholly wanting, to maintain the Dominion of the Kingdom of *England* by Sea. Mention is made touching this particular in the Court-Rolls of *Edward* the first [f], *Terrarum ad Custodiam Maris agistatarum*; that is, of such Lands as were charged with a Paiment or Tribute for the guard of the Sea. Wee know indeed also, that it was in the same manner collected at that time, under pretence of the Sea, for the pay and maintenance of Land-Forces neer the Shore. But certain it is, that the Sea it self was guarded then with Naval-Forces, as well as the Shore by Land-Forces, and so that that Paiment belong'd either to the Sea it self, or else to the Shore as well as the Sea. Moreover, Subsidies have been demanded of the people in Parlament, *Pour* [g] *la salvation du Royalme & de eux Mesmes & auxint de la Meer, de la March d' Escoce, de Gascoign & des Isles*; that is, *for defence of the Kingdom, the Sea belonging thereunto, the Scotish Border, Gascoign, and the Isles.* Thus the Sea, and its defence and Dominion is reckoned in an equal right and condition with that of the Kingdom, the Borders, and the Isles. Several other instances there are of that kinde. But that especially is to bee observed in this place, which wee finde in the Parlamentarie Records of King *Richard* the second, concern-

[f] *M.* 25 Ed. 1. *Comm. Banc. Rot.* 72. *Penès Camerarios* Scaccarii.

[g] *Rot. Parl.* 13 Edw. 3. *Art.* 6.

ing a Tribute or Cuſtom that was impoſed upon every ſhip that paſſed through the Northern Admiraltie, that is, in the Sea which ſtretcheth it ſelf from the *Thames* mouth along the Eaſtern ſhore of *England* towards the North-Eaſt, for the pay and maintenance of the Guard or Protection of the Sea. Nor was it impoſed onely upon the ſhips of ſuch Merchants and Fiſher-men as were *Engliſh*, but alſo by the ſame right in a manner upon thoſe of any Foreiners whatſoever, no otherwiſe than if a man that is owner of a Field, ſhould impoſe a yearly Revenue, or Rent for the libertie of Thorowfare, or driving of Cattel, or Cart, through his Field. Paiment was made at the rate of ſix pence a Ton upon every Veſſel that paſſed by; except ſuch ſhips onely as brought Merchandiſe out of *Flanders* to *London*, or that carried Wooll and Skins from any other place within the Juriſdiction of that Admiraltie to *Calais*. If a Veſſel were imploied to fiſh for Herrings, it paid the rate of ſix pence a week upon every Ton. If for other kindes of Fiſh, ſo much was to bee paid every three weeks; as they who brought Coles hither from *New-Caſtle*, paid it every three months. But if a Veſſel were bound for *Pruſſia*, *Norwaie*, *Scone*, or any of the neighboring Countries, it paid a particular Cuſtom, according to the weight and proportion of the Freight. And if any were unwilling, it was lawful to compel them to pay. That is to ſay, there were certain Officers that had autoritie to exact it, having the Command of ſix ſhips, Men of War, for this kinde of Guard or Protection. But the whole matter I here faithfully ſet down out of the [h] Original, in the ſame language it was written, that is, the *Norman* Language of that time.

[h] *Rot. Parl.* 2 *Ricb.* 2. *part.* 2. *art.* 38. *in ſchedulâ.*

C'eſt

Ceſt l' Ordinance & Grantè, per l'aduis des Marchaunds de Londres, & des autres Marchaunds vers la North, per l'aſſent de touz les Communes de Parlement, par devant le Comte de Northomberland & le meaire de Londres, pur la garde & tuicion du mier & coſters del Admiralté de North ove deux Niefs, deux Bargis, & deux Ballingers armez & arraiez pur guerre ſur les couſtagis que s' enſuient.

Primerement, pur prendre de Cheſcun Nief & Craier, de quele portage q' il ſoit que paſſe per la mier dedeinz le dicte Admiralté alant & returnant pur la voiage de cheſcun tonnetight VI^{d}. *horſpris Niefs chargez ove vins, & Niefs chargez ove marchandiſes en Flandres qe ſerront frettez & diſchargez à Londres, & Niefs chargez ove leynes & peues à Londres ou ailleurs dedeinz la dicte Admiralté que ſerront diſchargez à Caleis; les quieux Niefs les Gardeins de la dicte mier ne ſerront tenuz de les conduire ſans eſtre allovez*

Item, de prendre de cheſcun veſſeau peſſoner qe peſſent ſur la mier du dit Admiralté

entour harang, de quelle portage q'il ſoit, en un ſemain, de cheſcun tonnetight VI^{d}.

Item, de prendre des autres Niefs & veſſeauz peſſoners que peſſont entour autres peſſons ſur la mier dedeinz la dicte Admiralté, de quele portage q'il ſoit, en trois ſemaignes de cheſcun tonnetight VI^{d}.

Item, de prendre de touz autres Niefs & veſſeaux paſſanz par mier dedeinz la dicte Admiralté, chargez ove Charbons ou Novel Chaſtiele ſeur Tyne de quele portage q'il ſoit, en le quarter de un an, de cheſcun tonnetight VI^{d}.

Item, de prendre de touz autres Niefs, Craiers & veſſeaux paſſanz per mier dedeinz la dicte Admiralté, chargez ove biens des Marchanz queconques en Eſpreux, ou en Northway ou en Scone, ou en aſcune lieu en meſme les parties de pardela, pur le voyage alant & retornant, de cheſcun laſt Squar, viz. *laſtas graves* VI^{d}.

This

This is the Ordinance and Grant by the advice of the Merchants of London, and other Merchants towards the North, by the Assent of all the Commons in Parlament, before the Earl of Northumberland, and the Mayor of London, for the Guard and tuition of the Sea, and the Coasts of the Admiraltie of the North, with two Ships, two Barges, and two Ballingers, armed and fitted for Warr, at these rates following.

First, To take of every Ship and Bark, of What burthen soever it bee, Which passeth through the Sea within the said Admiraltie, going & returning, for the Voiage, upon every Tun VI^{d}; Except Ships laden with Wines, and Ships laden with Merchandises in Flanders, which shall bee unladen and discharged at London, and ships laden with Wools & skins at London, or elsWhere within the said Admiraltie, which shall bee discharged at Calais; which ships the Guardians of the said Sea shall not bee bound to convoy without allowance.

Item, To take of every Fisher-boat that fisheth upon the Sea of the said Admiraltie for Herrings, of What burthen soever it bee, for each Week, of every Tun VI^{d}.

Item, To take of other Ships and Fisher-boats, that Fish for other kindes of Fish upon the Sea, within the said Admiraltie, of what burthen

burthen soever they bee, for three Weeks, of every Tun VI d.

Item, To take of all other ships and Vessels passing by Sea, within the said Admiraltie, laden with Coles from New-Castle upon Tyne, of what burthen soever they bee, for a Quarter of a year, of every Tun VI d.

Item, To take of all other ships, Barks, and Vessels, passing by sea, within the said Admiraltie, laden with Goods of any Merchants whatsoever for Prussia, or for Norway, or for Scone, or for any other place in those Parts beyond the sea, for the Voiage going and returning, of every Last VI d.

So run the Records of Parlament, which in that Age were almost all written in this kinde of Language; Not such as arrived at shore were charged here (as in most other places) with Customs, as upon the Account onely of the shore; but those that passed or sailed by, or used Fishing, as well Strangers as Natives. And this was upon the request also of the Estates in Parlament under *Henrie* the fift in the preferring of a certain Bill, which I have taken out of the Records, and set down at large[i] hereafter. That is to say, they desired it, as beeing very well instructed in the antient Law and Custom touching that particular, and of the King's Dominion. Nor can any thing bee said more expresly, for asserting the Dominion of the King of *England* over the Sea it self. For, it is clearly the interest of him who is Lord or Owner of the place, to impose paiments and services within a Territorie.

[i] *Chap.* 23.

More-

Moreover, in the time of *Henrie* VI, *William de la* **Poole** Duke of *Suffolk* beeing accuſed in [k] Parlament, the principal head of the Charge was, that hee had converted the Subſidie monie to other uſes, which had been impoſed and levied for the Guard of the Sea. The words in the *Engliſh* are, **For the Defence and tuycion and ſauke keeping of the Sea**, as wee reade it in the Records. A demand was made alſo in [l] Parlament, in the two and thirtieth year of the ſame King, of fourtie thouſand pounds, **For the defence and ſaufegard of the Sea**; as wee reade likewiſe in the Records. But why do I cite them here? In thoſe [m] Acts of Parlament which are publiſhed abroad in Print, wee very often finde it, as a thing aſſerted by the Eſtates of the Realm in Parlament, that the Kings of *England* have time out of minde, by autoritie of Parlament, taken large ſums of monie, by way of Subſidie or Cuſtom, upon Merchandiſe either imported or exported, **For the defence of the Realm, and the keeping and the ſaufegard of the Seas, for the entercourſe of Marchandiſe ſafely to come into and to paſs out of the ſame** (which is the uſual form of words.) That is to ſay, theſe words are part of the Preface or Preamble which was uſually placed in the beginning of any Law or Statute, whereby that moſt known Cuſtom or Impoſt of *Tonnage* and *Poundage* was wont to bee impoſed, **For the keeping and ſure defending of the Seas againſt all perſons entending or that ſhall extend the diſturbance of us your ſaid Commons in the intercourſe and the invading of this your Realm.** So that the King of *England* hath ever been ſo accounted the Arbitrator and Lord of Commerce throughout

[k] *Rot. Parlam.* 28. *Hen.* 6. *art.* 38.

[l] *Rot. Parlam.* 32. *Hen.* 6. *articul.* 30. & 41.

[m] *Stat.* 1. *Edward.* 6. 1. *Mariæ Reginæ*, 1. *Elizabethæ*, 1. *Jacobi Regis.*

theſe Seas, that it could not lawfully bee hindred without his Commiſſion. Which truly is a manifeſt evidence of that Dominion or Ownerſhip, whereof wee treat. And here you ſee alſo that the defence of the Realm, that is, of the Iſland (for ſomtimes the Iſle alone, and ſomtimes the Sea alſo, as I ſhall ſhew by and by, is comprehended in that name) and of the Sea, as of thoſe things which are held and poſſeſſed by one and the ſame Right, is joined together. The Tribute or Cuſtom afore-mentioned, which was wont to bee impoſed, and the uſual form of the ſame Impoſition, may bee ſeen compleat in the printed Acts of Parlament of K. *Edward* the Sixt, and others following. But it appear's moſt certain by the *Rolls*, that the Predeceſſors alſo of this *Edward*, whoſe Records are yet extant, did enjoy the ſame or the like, according to the various Cuſtom of the Times.

Obſervation

Obſervations touching the Dominion of the Engliſh *and* Iriſh *Sea, from the* tenor and varietie *of thoſe* Letters Patents *or* Commiſsions Roial, *whereby the* Admirals of England *were wont to bee put in Autoritie.*

CHAP. XVI.

THe uſual form of Commiſsion, whereby the High Admiral of *England* is wont to bee inveſted with Autoritie for the Guard of the Sea, run's thus at this day, as it hath don alſo for very manie years paſt.

Wee give and grant to N. the Office of our great Admiral of England, Ireland, Wales, and of the Dominions and Iſlands belonging to the ſame, alſo of our Town of Calais and our Marches thereof, Normandie, Gaſcoigne, and Aquitain; And wee have made, appointed, and ordained, and by theſe Preſents Wee make, appoint, and Ordain him the ſaid N. our Admiral of England, Ireland, and Wales, and our Dominions and Iſles of the ſame, Our Town of Calais and our Marches thereof, Normandie, Gaſcoign, and Aquitain; as alſo general Governor ouer all our Fleets and Seas of our ſaid Kingdoms of England and Ireland, our Dominions and Iſlands belonging to the ſame. And know ye further, that Wee of our eſpecial grace and upon certain knowledg &c. Do give

and grant to the said N. **our great Admiral of** England **and Governor general over our Fleets and Seas aforesaid, all manner of Jurisdictions, Authorities, Liberties, Offices, Fees, Profits, Duties, Emoluments, Wrecks of the Sea, Ejectments, Regards, Advantages, Commodities, Preheminences and Privileges whatsoever, to the said Office our great Admiral of** England **and** Ireland, **and of the other Places and dominions aforesaid in any manner whatsoever belonging and appertaining.**

And afterwards there follow verie many other particulars in the King's Commission, setting forth that most ample Command and Jurisdiction. In former times, as hath been alreadie shewn you, this kinde of Commanders were called *Custodes Maris*, **Guardians or Keepers of the Sea**, who afterward began to bee invested with the name of *Admirals*, in the Reign of *Edward* the First. But their Commands were usually restrained to certain Limits of Coasts; So that particular Commanders were sometimes set over each of the Three, Western, Southern, and Northern Coasts; but for the most part over the Western and Northern. Seldom was one set over both, before that the Title of Admiral of *England*, *Ireland*, and *Aquitain* was put into the Commissions; of which more by and by. But as the name of *Guardian of the Sea* was taken from the Sea it self, whereof hee was Governor as of a Province; so that of *Admirals* (a word, whose Original is very uncertain; but Ἀμηρᾶλιος or *Amiralius* was used of old for a *Commander of a Fleet or Navie*, not onely in the *West*, but also in the *Eastern Empire*) derived its name of Dignitie, either from the Fleet wherewith hee defended his Jurisdiction at Sea

[a] *Georgius Codinus, de Officiis Constantinopolit. cap. 2.*

(as

(as it was usual heretofore) or elſ from the Land, either bordering upon that Juriſdiction or joined therewith, as it hath been in the later Form of Commiſſions. Whereupon, from the time of *Edward* the Firſt, unto *Henrie* the Fourth, about one hundred and Fiftie years, they were in ſolemn manner created **Admirals of the Fleet or Navie of our Ships, towards the Northern Parts, or towards the Weſtern Parts, or the Southern**, or (as it fell out ſomtimes) of both together. For, the Southern and Weſtern Coaſt did, as appear's by the thing it ſelf, ſignifie one and the ſame: That is to ſay, the Coaſt ſtretched here and there along the Shore from the North of the *Thames*. But as the Dignitie of thoſe Officers called *Comes* and *Magiſter Equitum* of the Weſt, *Magiſter Equitum* throughout Gallia, *Magiſter Militum* throughout the Eaſt, *Magiſter Militum* throughout *Thrace*, and others of that kinde in the Imperial Offices, did no leſs denote the Autoritie and Juriſdiction of them that commanded in theſe Provinces, who before were Lords of the Provinces, than if they had been called *Comes* and *Magiſter* of the Weſt, *Magiſter* throughout *Gallia*, throughout the *Eaſt*, and throughout *Thrace*; ſo it is evident, that the Admirals of the Fleets and Navies (whereby the Sea is guarded after the ſame manner, as the Land is poſſeſſed by Land-Forces) did no leſs ſet forth the Command and Dominion, and civil poſſeſſion of thoſe that had autoritie over the Sea (who before were Lords of the Sea) then if they had been ſtyled Guardians of the Sea, Commanders, or Admirals, in their Commiſſions. And ſuch as were ſo conſtituted Admirals of both Coaſts, or of the whole *Engliſh* Navie, were ſomtimes by a general name [b] called *Admirals of England*

[b] *Rot. Pat. 10. Rich. 2. part. 2. Memb. 19. & 11. Rich. 2. part. 2. m. 12.* ubi Richardus Comes Arundeliæ ſic nuncupatur *in Protectionis revocatione.*

England over the Sea, before that form of words was put into the Royal Commissions. And of this sort of Admirals you have a Catalogue set down by that eminent man Sir *Henrie Spelman* in his Glossarie, where there are others also that follow.

But such a change hapned in the Form of the Commissions, in the time of *Henrie* the Fourth, that there was one man appointed Admiral not onely of the Fleets or Navies, but of *England and Ireland* (over whose *Fleet of Ships* or Navie for Defence of the *Irish Sea*, sometimes a particular person was made Admiral, as was [c] *Thomas* Percie Earl of *Worcester*) yea and in expres words also Admiral of *Aquitain* and *Picardie*; As was *Thomas Beaufort* (who also was Duke of *Excester* under *Henrie* the Fifth) in the [d] thirteenth year of *Henrie* the Fourth, after hee had surrendred the Commission, whereby hee had before been made Commander of the Fleets: And hee was the first (for ought wee know) that was created in this manner. But in the next Form of Commission the name of *Picardie* was left out. So indeed in the fourth year of *Henrie* the Sixth, or *Anno Dom.* MCDXXVI. *John* Duke of *Bedford* was by Commission [e] made *Admiral of England, Ireland and Aquitain.* That Form continued about 88. years, or throughout the Reigns of *Henrie* VI, *Edward* IV *Richard* III, *Henrie* VII, and the three first years of *Henrie* VIII. And about that time, ten others were in like manner made Admirals, for the most part perpetual, of *England, Ireland*, and *Aquitain*; the last of which was *John* Earl of *Oxon*, who was Commissionated in that [f] Form, in the first year of *Henrie* the Eight. But there followed another alteration, or addition of Titles, in the fourth year of that King,

[c] *Rot. Pat. 21. Rich. 2. part. 2. m. 15.*

[d] *Ms. Formularum de Rebus Maritimis*, in Biblioth. Cottonianâ. 3. Maii, 13 Hen. 4.

[e] *Rot. Pat. 4. Hen. 6. part. 2. Mem. 11. 26. Julii.*

[f] *Rot. Part. 1 Hen. 8. part. 1.*

Anno

Anno Dom. MDXIII. At that time, Sir *Edward* **Howard** Knight, son of *Thomas* Earl of *Surrie*, afterwards Duke of *Norfolk*, was made [g] *Admiral of England, Wales, Ireland, Normandie, Gascoign, and Aquaitain.* To which words, [h] *Calais and the Marches thereof* are added in the Commission of *William* **FitzWilliams** (who also was Earl of *Southampton*) beeing appointed Admiral in the twentie eight year of King *Henrie* the Eight. This Form of Commissions held in use afterward, through the whole Reign of that *Henry*, adding (according to antient Custom) the clauses touching Jurisdiction. But in the beginning of *Edward* the Sixt, *Thomas* Baron **Seymour** of **Sudeley**, brother to *Edward* Duke of *Somerset*, was made Admiral [i] almost in the same words, as that *William* Earl of *Southampton*; inserting after the name of *Calais*, *Boloign and the Marches of the same.* After him followed *John* Earl of *Warwick*, who was created by *Edward* the Sixt, in the third year of his Reign, [k] *our Admiral of England, Ireland, Wales, Calais, and Boloign and our Marches of the same, of Normandie, Gascoign, and Aquitain; as also Governor general over all our Fleets and Seas*; And in the same Commission hee is styled afterwards, *Great Admiral of England and Governor of our Fleets and Seas.* But after a while, the name of *Boloign* being omitted, the next high Admiral of *England* was created in the very same Form of words, as is mentioned before in the beginning of the Chapter. For, in the same [l] Form was *William* Baron **Howard** of **Effingham** Son of *Thomas* Duke of *Norfolk*, made Admiral in the beginning of Queen *Marie*, or *Anno Dom.* MDLIII. And the Command or Government of those Seas, as the principal charge of that Office or Dignitie, is more notably expressed there, as you may see, than in the Commission of the Earl of *Warwick.*

[g] *Rot. Pat. 4. Hen. 8. part. 2. Augusti. 15.*

[h] *Rot. Pat. 28. Hen. 8. part. 2. Augusti. 16.*

[i] *Rot. Pat. 1. Edw. 6. part. 6. 17. Febr. membran. 9.*

[k] *Rot. Part. 3. Ed. 6. part. 2 Novemb. 28.*

[l] *Rot. Pat. 1. Mariæ Reginæ, part. 5. 20. Martii. Membr. 3.*

From

From that time forwards, the very ſame Form was kept alwaies; as in the Commiſsion of the high Admiralſhip granted to *Edward* Baron *Clinton* (afterwards Earl of *Lincoln*) in the Reign of [m] *Philip* and *Marie*; alſo in the Commiſsion of *Charls* Baron of *Effingham*, afterwards Earl of *Nottingham*, in the time of Q.[n] *Elizabeth*; and of *Charls* Duke of *York*, in the time of King [o] *James*; beſides *George* Duke of *Buckingham*, who enjoied the ſame Office or Command in the ſame words, in the Reigns of [p] *James* and *Charls*. So that for above eightie years or thereabout (that is, from the beginning of Q. *Marie*) the whole form, as it is ſet down in the beginning of this Chapter, was ever expreſsly reteined in the Commiſsions of the high Admiralſhip of *England*, ſo far as they denote either the Countries, or the Seas, or the Dominion of the ſame. But therein the Admiral is ſtyled *Governor General over all our Fleets and Seas*, (juſt as *John* Earl of *Warwick* was likewiſe expreſsly appointed in general tearms under *Edward* the ſixt) or *over our Seas aforeſaid*. But what were thoſe Seas, or *the Seas aforeſaid?* They are in the fore-going words expreſsly called *the Seas of our ſaid Kingdoms of England and Ireland, our Dominions and Iſlands of the ſame*. That is, in plain tearms, *Mer d' Engleterre, d' Ireland, & Gales*, or the *Sea of England, Ireland, and Wales*; after which manner the Seas belonging to the Dominion of *England*, are ſomtimes alſo deſcribed in [q] our Laws, which are called likewiſe now and then by [r] our Lawyers, *Les quatre Miers d'Engleterre*, or *the four Seas of* England, divided according to the four Quarters of the World. So that in the moſt received form of this Commiſsion, after the beginning of Queen *Marie's* Reign (out of which alſo the ſenſ and meaning of former Commiſsions is

to

[m] *Rot. Pat. 4. & 5. Phil. & Mariæ, par. 1. Feb. 10.*

[n] *Rot. Pat. 27 Eliz. R. part. 10. 8. Julii.*

[o] *Rot. Pat. 9. Jacobi Regis, part. 9. Jan. 27.*

[p] *Rot. Pat. 16 Jacobi Regis, part. 17.*

[q] *Stat. 20 H. 6. cap. 11.*

[r] *2 Ed. 3. fol. 9. ſeu 36 a. pl. 6.*

to bee collected) wee have a continual poſſeſsion or Dominion of the King of *England* by Sea, pointed out in expreſs words for very many years. And what wee have alreadie ſpoken by way of Collection out of theſe that followed the beginning of *Marie*, touching the ſenſ or meaning of former Commiſsions, wherein a poſitive Command of the Sea is not expreſſed, is truly (to omit the thing it ſelf, which ſufficiently intimate's as much of its own nature) not a little confirmed upon this ground, that hee alſo, who before any expreſs mention of *our Seas*, took place in the form of the Commiſsion of the high Admiralſhip, was next preferr'd to the ſame dignitie, was immediately after his Creation, according to the whole Title of his Office (as beeing the ſame title which indeed alwaies belonged to the Admirals of *England*) ſtyled; *Great Admiral of England, and Governor General of the Navie and our Seas.* So verily *Thomas* Baron *Seymour* (whom I mentioned before) is ſtyled Admiral of *England* in the Patent Roll granted to him by *Edward* the ſixt.

[1] *Rot. Pat. 1 Ed. 6. part. 6. membran. 5. Auguſti, 30.*

It is proved by words plain enough in the form of the Commiſsions *for the Government or command of the high* Admiral of England, *from antient to the preſent time, that the Sea, for whoſe guard or defence, hee was appointed by the King of England as Lord and Soveraign, was ever bounded towards the South, by the ſhore of* Aquitain, Normandie, *and* Picardie.

Chap. XVII.

BUT in the Form alreadie ſhewn, which hath continued in uſe for ſo many years, you ſee mention is made onely *of the Seas of our Kingdoms of* England, *and* Ireland, *our Dominions, and Iſlands belonging to the ſame*, as the Province, for whoſe guard or defence the *Admiral* was appointed; that is, (as wee have told you) the *Engliſh*, *Iriſh*, and *Welch* Sea, all which is conteined under the name of the *Britiſh*, as it hath been obſerved at the beginning of this Book. Yet the names of *Normandie*, *Gaſcoign*, and *Aquitain*, beſides *Calais*, are added, which are Provinces ſeated upon the ſhore over againſt us. As to what concern's them in this place, they are either to bee conſidered in the ſame manner as if they had been alwaies held in ſubjection by the *Engliſh* from the time of the firſt mention of them in the Commiſsion; or as they have alreadie for ſom Ages paſt been out of their Juriſdiction.

But ſuppoſe in the firſt place, that they had alwaies remained in the Juriſdiction and Poſſeſsion of the *Engliſh.*

liſh. Queſtionleſs, howſoever the Admiral of *England* might then, according to this Form of Commiſsion, have had Courts of Admiraltie in thoſe Provinces (as there is no place almoſt without Courts of Admiraltie, even where not any Dominion of the Sea at all is pretended to belong unto the place, wherein they are held) yet by no means might hee thence bee called Commander of the Sea it ſelf (if ſo bee you except the Ports, and ſuch like Creeks of the Sea, which are as it were incorporated within Land) either as it may bee ſaid to belong to *Normandie*, or to *Aquitain*, *Gaſcoign* or *Picardie*: But by virtue of this form of Commiſsion, hee had exerciſed Maritim Juriſdiction in thoſe Provinces beyond Sea, no otherwiſe almoſt than our Admiral in *England*, and *Ireland*, or others the like do at this day, over men's perſons & goods upon the *African*, *Mediterranean*, *Indian*, or any other Sea at a remote diſtance: For, the extent of ſuch a Juriſdiction by Sea is without bounds. But the extent of his Juriſdiction, or of the Sea, over which hee is placed Admiral, as Warden, Guardian, or Preſident, to defend and keep it under the Dominion of him who is Lord thereof, are bounded. And it ſufficiently appear's by expreſs words of the antient form of Commiſsion, that no Sea is conteined therein, as a Province to bee defended, but that which is either *Engliſh*, *Welch*, or *Iriſh*, or relate's to *England*, *Wales*, and *Ireland*, as an appendant. From whence it follow's, that thoſe names of the oppoſite ſhores in the Commiſsions do not at all mention the Sea flowing between as proper to thoſe ſhores, or belonging to them in any kind, but ſerv onely as a limit beyond the Sea (ſo far as concern's the limiting of the *Engliſh* and *Iriſh* Sea;) as thoſe names alſo of *England*, *VVales*, and *Ireland*, ſerv in ſtead of a limit on this ſide of the Sea, ſo far as in the Commiſsi-

on they denote the Sea under the Admiral's Charge or Protection: So that, even as that Officer called the *Count of the Saxon ſhore throughout Britain*, was eminently according to the name of his dignitie, Commander of the whole Sea flowing between *Gallia* and *Britain*, as of a particular Province, (which hath been ſhewn [a] alreadie) and had the name of the oppoſite ſhore for the limit of his Juriſdiction; ſo the high Admiral of *England*, or Commander of the Sea belonging to the *Engliſh* Empire, hath in the King's Commiſsion the ſhore of *Normandie*, *Gaſcoign*, *Aquitain*, and *Picardie*, to ſet forth onely the beyond-Sea limits of his Juriſdiction or Command (ſo far as hee hath charge of defending the Sea-Province or Dominion belonging to *England*) in thoſe ſhores which lie over againſt us. For, if any ſay, that the caſe is otherwiſe, wherefore then is not the ſea over which hee hath command, denominated from ſom of theſe ſhores over againſt us, as well as of the Engliſh, Iriſh, and Welch, or *the Seas of the Kingdoms of* England, Ireland, *and* Wales, *and of the Dominions and Iſles belonging to the ſame*? The Reaſon is, becauſ no other Sea, as it fall's under a Civil conſideration (for wee ſpeak not here of the denomination given by Geographers) doth flow between the Territories on this and the other ſide of the Sea which are mentioned in his Commiſsion. Therefore as in that Roman dignitie of the *Count of the Saxon ſhore throughout Britain*, the ſhore was the tranſmarine bound or limit of that dignitie, ſo alſo in the Command of the high Admiral of *England* (ſo far onely as hee hath a Province or Juriſdiction by Sea, as a Governor of a Territorie) thoſe oppoſite ſhores or tranſmarine Provinces, named in his Commiſsion, are to bee reckoned the Bounds of the Sea under his Charge or Protection. And this truly is ſufficiently appa-

[a] *Chap. 6. of this Book.*

apparent from the words of the Commiſsion alreadie handled, if ſo bee wee ſuppoſe (as hitherto wee have don for diſcourſ ſake) that the Kings of *England* did, all the while that form of Commiſsion was in uſe, retain thoſe Beyond ſea Provinces under their Dominion as the *Romans* had don of old. But the matter is made more evident, if wee obſerv how the names of thoſe Provinces have, at leaſt, from the time of Queen *Marie*, been ſo kept in the form of this Commiſsion, that ſince her Reign there remain's not the leaſt ground for any of thoſe in the Commiſsion, to ſignifie any other thing than what wee have alreadie declared: For, in her Reign *Calais* was yielded up to the *French*, and ſince that time, the *Engliſh* have not been poſſeſſed of any Province upon any part of the oppoſite ſhore.

Moreover alſo, in the one and thirtieth year of King *Henrie* the ſixt, or *Anno Dom.* MCCCCLIII. the *Engliſh* were driven out of *Gaſcoign*, *Aquitain*, and the other Provinces of *France*, by the *French* King, *Charls* the ſeventh: Nor was there after the time of this *Henrie*, any Officer or Governor of Note appointed, or that could conveniently bee appointed by the *Engliſh* either in *Normandie*, or in *Aquitain* it ſelf; yea, nor in *Normandie*, either after or long before the loſs of *Aquitain*. It is true indeed, that the Countie of *Guiſe*, *Calais*, and ſom other Towns in *Picardie*, beſides thoſe neighboring ones that *Henrie* the eight gained by force of arms in the ſame Countrie, remained long after in ſubjection to the Kings of *England*; yea, and that a ſmall part of [b] *Aquitain* yielded obedience, though not conſtantly, to the King of *England*, for ſom years after *Henrie* the ſixt; but not the whole Dutchie. Nor doth it make to the contrarie, that ſomtimes under ſom of our later Kings, there was one appointed *Captain General* or *Governor over*

[b] *Rot. Vaſcon. 6. & 7 Ed. 4. &c. in Capellâ Rotulorum.*

all our Subjects in Normandie, with which Title both *Ambroſe* Earl of *Warwick*, and *Adrian Poynings* were honor'd in the time of Queen [c] *Eliſabeth*. For, they were meerly Generals of the Forces that were tranſported thither to aſsiſt the King of *France*, not inveſted at all with any Government or Command of the Dutchie of *Normandie*. But yet, even after the time of *Henrie* the ſixt, the name of *Aquitain* was conſtantly retained in the Commiſsion of the High Admiralſhip of *England*: That is, for one hundred and fourſcore years, or thereabout, after the *Engliſh* were driven out of *Aquitain*, as appear's in the former Chapter. Hereto at length was added (as is ſhewn there alſo) the name of *Normandie*, in the beginning of *Henrie* the eight: whereas notwithſtanding the King of *England*, was not poſſeſſed of *Normandie* a long time before, nor in any wiſe after; nor did hee in that agreement [d] made a little before with the King of *France*, claim any other poſſeſsion in *Picardie*, beſides that of *Calais*, and the Territorie of *Guiſe*, and *Hammes*. And ſo it hath continued now for one hundred twentie two years alſo in the Commiſsion of Maritim Government or high Admiralſhip of *England*, without any relation at all had to the Government or Command of the Dutchie it ſelf, but onely of the ſhore, which bounded the Sea under his Maſter's protection, upon the Coaſt of *France*. For, although *Aquitain* indeed was firſt added to the names of *England* and *Ireland*, in that Commiſsion, while the *Engliſh* poſſeſſed the Dutchie of *Aquitain*, nevertheleſs it not onely ſo remained likewiſe in that form of Commiſsion conſtantly, even after the expulſion of the *Engliſh*, until our times, but *Normandie* alſo (which had never been named before in the Commiſsion of high Admiral of *England*) was added, and this ſom Ages after

[c] *Rot. Pat. 4 Eliz. R. part. 1. in dorſo.*

[d] *Rot. Franciæ, 2 Hen. 8.*

after that the *Engliſh* were wholly deprived of the Dutchie it ſelf : So that either theſe names do ſerv in ſtead of a Limit to the Sea under his protection, or elſ wee muſt perforce admit contrarie to reaſon, that they ſignified nothing in the Commiſsion for ſo many years. For, wee ſee that thoſe names of oppoſite Shore were reteined in the Admiral's Commiſsion, even from the end of Queen *Marie's* Reign until our times, or for the ſpace of 77 years, though the *Engliſh* in the mean time were not poſſeſt of the leaſt part of *France*; as alſo that *Normandie* was added many years before, but yet long after the *Engliſh* were outed of its poſſeſsion. Nor ought any man fondly to imagine that theſe Names were inſerted, becauſ of that right the King of *England* had to the Crown of *France*. For indeed, the Kings of *England* have, by an antient Right, uſually entitled themſelvs Kings of *France*: Alſo the Dutchies of *Aquitain* and *Normandie* and the other Provinces of *France* mentioned in this Commiſſion, are comprehended in that name of the Kingdom, as the leſſer in the greater. But if that had been the cauſ, certainly the name of *France* ſhould have been aſcribed to our Admiral; yea, and other Officers of that Kingdom have been made in the ſame manner by the King of *England* after hee was driven thence : Of which thing there is not the leaſt evidence indeed any where exſtant. And it is to bee obſerved, as ſoon as ever an alteration was made in the Draught of the Commiſsion, from that denomination of the Command of the Admirals of *England*, which was derived from the Fleets and Coaſts over which they had command, unto that which is made up of the Kingdoms and Provinces, that then an Addition was made of *Aquitain*; to the end that the limit or Bound,

as

as well on this as the other ſide of the Sea, might bee pointed out by the Shores: The name of *Normandie* beeing added afterwards, and reteined ſtill together with *Calais* and the Marches thereof and *Aquitain*, upon the ſame account. But while that the Kings of *England* were in former times poſſeſt of *Normandie*, *Aquitain*, and other Countries in *France*, there are not found in the form of Commiſsion, wherein the Kingdoms and Provinces (as hath been alreadie ſhewn) are expreſsly nominated, any other Admirals or Governors of the Maritim Province or Dominion by Sea made by them, beſides thoſe to whoſe care the Fleets and Coaſts were committed in the manner alreadie mentioned; that is to ſay, the whole Sea flowing between our *Britiſh* Iſles and the Provinces over againſt them, and the Fleets belonging to any Territories whatſoêver of the Kings of *England*, were at that time by a peculiar right of the Kingdom of *England* in the Sea, ſo ſubject to them who were ſo put in Command over the *Engliſh* Fleets and Coaſts, that there remained neither place nor uſe for any other Commanders of that kinde. Which may bee ſaid likewiſe of thoſe times, wherein ſom of the Kings of *England* ſtood poſſeſſed alſo of the Kingdom of *France*; as *Edward* the Third, and the two *Henries* 5th and 6th. Nor is it a bare conjecture, that they did not put any others in command over the Sea and Fleets, beſides thoſe to whom, by right onely of the Kingdom of *England*, the power was committed (to wit, according to that right which comprehended the whole Sea flowing between) but it is ſufficiently proved alſo upon this ground, that wee have the antient publick [e] Records of thoſe times, touching the Offices conſtituted by our Kings in *France*

[e] *Rotuli Franciæ, Normanniæ, Vaſconiæ,* Archivo arcis Londinenſis, *Regum ferè ſingulorum annis diſtincti.*

France, and thoſe Provinces beyond Sea, in moſt whereof I finde not the leaſt ſign of the contrarie.

And if it bee demanded here, wherefore it was that the Shore of *Bretaign* was omitted (which in like manner lie's over againſt our Iſle of *Britain*, and together with the Shore of *Picardie*, *Normandie*, and *Aquitain*, ſufficiently take's up that whole Tract which ſtretcheth it ſelf in the Realm of *France*, before the *Engliſh* and *Iriſh* Sea;) certainly, if the afore-mentioned reaſon take place, there is little cauſ to doubt that it hapned thence, becauſ the King of *England* was not at any time ſo poſſeſt of *Bretaign*, that beeing outed of it, hee needed to bee very ſollicitous touching the Bounds of the Sea-Territorie adjoining. Diſtinct Lords of Territories confining on each other (as were the King of *England* and Duke of *Bretaign* heretofore; for *Bretaign* had Kings and Dukes of its own before *Charls* the Eight, under whom, *Anno Dom.* 1491. it was united to the Realm of *France*) do for the moſt part keep their Bounds ſo diſtinct, that they may bee the more evidently taken notice of by all; but when of ſuch kinde of Territories there is but one and the ſame Lord (as the King of *England* was while hee poſſeſſed either *Normandie* or *Aquitain* or any other Maritim Province in *France* together with *England*) hee beeing outed of either, ought above all things to take care that the paſt confuſion of poſſeſsion bee not prejudicial to the future diſtinction of Bounds. For fear then, leſt it might have been pretended that even the Sea adjoining or confining with thoſe Maritim Provinces, which were a long time heretofore poſſeſſed by the *Engliſh* and afterwards taken away, was taken away

together with the Provinces, whenas perhaps, by reaſon of the paſt confuſion of poſſeſsion in one and the ſame Lord, all men might not bee ſufficiently inſtructed touching the Bounds of the *Engliſh* Sea placed, as wee have ſaid, upon the Shore over againſt us; therefore for the ſetting forth of thoſe Bounds, the name firſt of *Aquitain* after its beeing loſt was reteined in the Admiral's Commiſsion, and then that alſo of *Normandie* was added. And afterwards both of them, with the name of *Calais* and the *Marches*, in ſtead of the Shore of *Picardie*, were for the ſame reaſon continued down to our times. Which reaſon truly could not concern *Bretaign* at all; nor *Flanders* likewiſe, nor any other Shores lying Eaſtward over againſt us: All which nevertheleſs do, after the ſame manner, bound the Sea-Territorie of *England*. Moreover, thoſe things that have been hitherto obſerved, ſhall bee confirmed, by what wee ſhall add next, touching the Office of Admiral among the *French*.

Touching

Touching the Admirals *of the* Kingdom of France, *or thoſe* conſtituted upon the oppoſite Shore; *their* Original, nature, *and* varietie. *That the Sea it ſelf flowing between Britain and France*, is not conteined in that command of his, *as of one that is Governor of a* Territorie or Province; *nor is there any thing in it that may oppoſe the Dominion of the King of* England *by Sea.*

CHAP. XVIII.

THat there were Admirals alſo conſtituted by the *French* King upon the oppoſit Shore of *France*, is known to everie man. And as there is an Admiral appointed in *Gallia Narbonenſis* to over-ſee maritim Affairs there, ſo alſo on the oppoſite Shore, there are diſtinct Offices of the Admiral of *Aquitain*, *Bretaign*, and *Normandie* and the adjoining Coaſts. But the *French* Lawyers of late are wont to call their Admiral in Latine *Præfectus Maris*, **Governor of the Sea**, as if the Sea were ſubject to him alſo as a Governor; whereas notwithſtanding, if the thing bee rightly conſider'd that Goverment of the Sea by what name ſoëver it bee called, doth not ſignifie (as among the *Engliſh*) any Dominion of one having command in any nearer part of the Sea (for, wee ſpeak not of the Sea of *Marſeille*, which hath no relation here-

unto) but onely of their Naval Forces in any Sea whatsoëver; together with the Government of the Sea-men and Jurisdiction over their persons and moveables, which may fall under the determination of a Judg *pour raison ou occasion* (as they [a] say) *de faict de la mer*, that is, *by reason or upon occasion of any suit or controversie arising about Sea-Affairs*. For the more plain understanding whereof wee must make farther enquirie.

[a] *Arrest. ann. 1377. sub Carolo 5. Edict. Franc. Tom. 3. Tit. 2.*

In the more antient times, there were indeed Admirals or Governors of Sea-affairs among the *French*, yet so that their Writers do not a little differ about the original of the dignitie. They for the most part say, that *Rotlandus* is found to have been Governor of the Sea of *Aremorica* or [b] *Bretaign* under *Charlemaign*, whom they fetch out of *Eginhartus* who wrote the life of *Charls* at that time. But in *Eginhartus* he is expresly called *Governor*, not of the *British Sea*, but onely *of the Shore of Britaign*, as wee told you in the *former Book: In which name there is a description, not of one that govern's the Sea as a Province, but who command's the Shore as the limit of his dignitie. That is to say, of the same kinde as those *Counts* (or officers) were, *who were* [c] *deputed in that Age to guard the Sea Coast*, and secure it from the incursions of enemies by Sea. There is also a [d] nameless Autor of a Chronicle belonging to a Monasterie called *Monasterium Besuense*, who write's that this guarding of the Shores under the *Caroline* Kings *was given over* a little after the time of *Charlemaign*. But in the following Ages, the Kingdom of *France*, beeing divided as it were by piece-meals into several principalites, that which a long retained this name of the Kingdom of *France*, was reduced into so narrow a compass, that the Province of *Narbon* was held by Sovereign Earls of its own, *Aquitain*

[b] *Choppin. de Domanio Franciæ, lib. 1. tit. 15. §. 11.* Pasquier en les Recerches, *liv. 2. cap. 14. J. Tilius de de Rebus Gallicis, lib. 2. Alii.*

**Cap. 18.*

[c] *Capitular Caroli & Ludovic. RR. lib. 5. cap. 4.*

[d] *In Gest. Normannorum, pag. 22.*

or

or the Weſtern Shore which lies more Southerly with *Normandie* by the *Engliſh*; *Bretaign* either by Kings or Dukes of the ſame, and *Flanders* by Earls: So that whilſt the whole Sea-Coaſt, except *Picardie*, remained ſeparate from that Kingdom, there was Sea little enough lying before it. Yea, and the Naval Forces were ſmall enough, of which (before the acceſſion of a larger Sea-Coaſt to the *French* Kingdom) there was moſt uſe in the expedition of the *holy War*. Nor was any other Governor wont to bee appointed there by the name of Admiral, then hee who as occaſion required was put in Command over the Navie and Militarie Affairs by Sea, yea, and was borrowed from ſom Nation bordering upon the Sea, as the *Genoeſes* or others of that kinde. But the Kings themſelvs had at that time no Command over the Sea, as it is expreſsly written by *Johannes Tilius*, a Clark of the Parlament of *Paris*. His words are theſe, [e] *After that the Kingdom of* France *was leſſen'd by diviſions, and the Kings confined to more narrow Dominions, becauſ they had potent Vaſſals who enjoied Feuds with abſolute Soveraigntie, if you except their homage (for, the King of* England *held the Dutchies of* Normandie *and* Aquitain; Britain *had a Duke of its own; and* Flanders, Tholouſe, *and* Provence *had their Earls) the Kings of* France *for a long time had no command over the Sea, and therefore had no need of Admirals, until they undertook the Expedition for the holy Land, at which time they made uſe of* Genoeſes *whom they hired, with* Spaniards, *or other of their neighbors that were well skill'd in Sea-affairs, to under-take the care of tranſportation, having no office appointed for that purpoſe; and by this means they had many Admirals in one ſingle Expedition.* But after that the *Engliſh* had quitted *Normandie*, and the Kingdom

[e] *De Rebus Gallicis, lib. 2. Adde Laurent. Bochel. in Theſauro Juris Gallicani. part. 1. pag. 90.*

of *France* had gotten ground upon the Sea-Coaſt, the uſe of Sea-Affairs alſo was ſomwhat augmented; That is to ſay, about the times of *John* and *Henrie* the third Kings of *England*. So that the firſt Admiral that they reckon in the Catalogue of French dignities, of whom any memorie is left to poſteritie, was *Enguerandus Coucæus*, in the time of *Philip* the Bold King of *France*, or about the year 1280, as it is related by *Joannes Feronius*. And what kinde of dignitie his was, appear's ſufficiently thence, that his next Succeſſors *Matthew Momorancie*, and *John Harcourt* were onely, upon a particular occaſion, put in command over the Sea-Forces by *Philip the fair*; as wee[f] underſtand by their Commiſsion. Yea, and they are mentioned by *William de Nangis*, by the title of Admirals; as others alſo are by [g] *Joannes de Beka*, in the time of *Philip the fair*. Although [h] *Joannes Tilius* reckon's *Amaurius* Viſcount of *Narbonne*, to bee the firſt that bare the dignitie of Admiral in *France*, as a conſtant ſetled Office over the Affairs of the Sea; to wit, in the time of *John* and *Charls* the fift Kings of *France*, that is, about the year 1300; whileſt[i] others are too buſie in ſumming up divers other particulars, touching the Antiquitie of this command among the *French*. Afterwards *Aquitain* was added to the Dominion of the King of *France*, in the year 1453. *Henrie* the ſixt of *England* beeing driven out. But in the year 1481. the Province of *Narbonne*; in the year 1491. the Dutchie of *Bretaign*; and laſtly, in the ſpace of ſom years, all that the Engliſh held in *Picardie*, was added alſo. So all the Sea-Coaſt, except *Belgium*, returned into the Patrimonie of the Kingdom of *France*. Hereupon it came to paſs, that four Sea-Governments or Admiralſhips were afterwards in uſe therein, notwithſtanding that ſomtimes one and the ſame perſon held

[f] *Apud Andræam Cheſnium, in Hiſtoria Familiæ Momorancie, lib. 3. pag. 183.*

[g] *In Chronic. Epiſcoporum ultraject. & Com. Hollandiæ.*

[h] *De Rebus Gallicis, lib. & vide Paſchaſium, en les Recerches, l. 2. c. 14.*

[i] *Popelliner. en l'Amiral de France.*

held several together. But of these, the Government that belong's to the shore of *Normandie* and *Picardie*, is at this day usually called the *Admiralship of France*, because before that the Province of *Narbonne*, *Aquitain*, and *Bretaigne* were annexed to the patrimonie of the Crown; the onely Maritim Government in the Realm of *France*, was that of *Picardie*, whereto *Normandie* was added afterward, as the next Province; the other three beeing denominated from their respective Provinces. The whole matter is very well set forth by *Renatus Choppinus*. [k] *There are* (saith hee) *four Governors of the* French *Sea, who bear an equal command under a different title, and upon several Coasts of the Sea. For, in antient time*, Aquitain *was possessed by the* English, Bretaign *by its Dukes,* Provence *by Hereditarie Earls, not by the* Kings *of* France. *And therefore at that time, the Admiral of* France *had command onely over the* Belgick *Sea of* Picardie, *and* Normandie, *as far as the Coast of* Bretaign. *But then all the other bordering Princes chose Governors of the Sea, or Admirals. peculiarly for themselvs. And therefore the* English *beeing driven out of* Aquitain, *and the Countries of* Provence, *and* Bretaign, *beeing brought into subjection to the Crown of* France, *the King supposing it not fit to innovate any thing, appointed a Lievtenant and Admiral of* Aquitain; *likewise a Governor of* Bretaign, *with the government of the Sea; as also in the Prouince of* Gallia Narbonensis, *in a manner distinct and apart from the rest. But the chief Courts of Judicature belonging to the* French *Admiral, are setled at* Paris, *and* Roan. So hee. And a little after hee write's, that there were Princes, not a few, who held the Sea-Coasts as *Beneficiaries*, that enjoied the power of Admiral in their Territories. But wee have Edicts and Decrees concerning the Admiral's Jurisdiction over the Maritim Forces, Affairs, and Persons, in the times of [l] *Charls* the

[k] *De Domanio Franc. lib. 1. tit. 15. § 13. Adde Popelliner.* En l'Amiral de France, *chap. 12.*

[l] *Edict. Regum Franciæ, lib. 3. tit. 5. & Popelliner. ca. 10.*

the fift and sixt, *Lewis* the 12th, *Francis* the first, *Henrie* the 2d & 3d, and other Kings of *France*; as also touching the Tenths of Spoils taken from Enemies, and other things of that kinde which relate unto the Goods and Persons of such as are subject to the Crown of *France*, upon the account of any manner of Navigation whatsoever. And in these Edicts hee is somtimes called by the King, *Nostre* [m] *Lieutenant general per la mer & greves d'icelle*, that is, *our Lieutenant general throughout the Sea and the shores thereof.* But this Lieutenant or Governor (as they pleas to call him) of the Sea, was never at all in command over any part of the Sea flowing between *France* and *Britain*, as over a Province or Territorie to bee defended for the King of *France*, (after the same manner as the Admiral of *England*) but in the Sea onely over the [n] Naval Forces, Persons, and Affairs belonging to the French Jurisdiction; much after the same manner, as a Soveraign Prince take's cognizance of Offendors of his own Retinue in a Forein Territorie, and rule's them as at home; but without any pretence of his to a right of Dominion in that Territorie. Which truly there is no man but will conceiv, that shall in the first place observ the defect and deep silence of antient Testimonies, touching such a kinde of Dominion among the French, besides the Qualitie of that Government among them, and at length the entire and most ample Power alwaies exercised throughout the Sea and the shore lying about it, under the sole command of the English, and will but compare it for so many Revolutions of years, with those so long broken and divided Dominions upon the opposite shore of *France*, and with the late addition of the Sea-Coast to the Kingdom of *France*, according to those things which have been alreadie spoken about.

[m] *Edict. Ludovici*, 12. 1480.

[n] *Petrus Gregor. Tholosan. in Syntagm. Juris, lib.* 1. *cap.* 3.

about it. It is clear, that there are no Testimonies before our time, concerning any Dominion of this sea, belonging to the King of *France*. Nor are there any in our time, except certain Lawyers, who speak of it either by the By, or in a Rhetorical flourish onely, not in a way of asserting it by strength of Arguments. Of these things I have spoken alreadie in the former Book; where also other matters are alleged, of special observation, which confirm what is handled in this particular. But now let us add hereunto, that the very French Historians, both of the past and present Age, do affirm, that in antient times the Kings of *France* therefore either had no Admirals at all, or elſ that they were constituted now and then (onely as occasion required) *becauſ they had no Empire over the Sea*, as *Tilius* saith expresly in the place above-mentioned. In vain therefore doth [o] *Popellinerius* reprehend those Historians, in saying it is falſ, becauſ *Normandie*, *Picardie*, and *Flanders*, were heretofore under the French Dominion. For, not to mention this, that the Kings of *France* reigned a long time without the possession of *Normandie* and *Flanders*, and reteined not any other shore besides that of *Picardie*, (as appear's by what hath been alreadie shewn, and by the frequent Testimonie of Historians) and the consequence doth not appear to bee good, that they had any command over the Sea, becauſ they were in possession of ſom Sea-Coaſt; no more truly than it may bee concluded, that a man is Lord of a River in *France*, becauſ hee hath Lands lying by it: whereas by received Custom according to the [p] Law of *France*, the King is Owner of all Rivers that are Navigable, where they belong not to ſom subject by a particular prescription of possession, or ſom other title, besides the possession

[o] L' Amiral de France, chap. 9.

[p] *Sanctyon des Coustomes des Eaus & Forests, liv. 2. chap. 1. cod. Hen. 3. lib. 16.*

of the adjacent Land, as the Cuſtom is not unuſual alſo in other places.

But as to what concern's the Qualitie of this Maritim Government among the French; it is to bee conſidered, that as every one of the more eminent Offices or Governments, hath a peculiar place in their high Court of Parlament, and that according to the nature of the Government, as it chiefly reſpect's any Province or Government within the limits of the French Dominion, as the *Conſtable*, the *Grand Eſcuyer*, or Maſter of the Horſ, the *Grand Maſter*, and others; yet the *Admiral of* France, hath no place at all upon that account: As it was determined in the time of [1] *Henrie* the ſecond, when ſuch a place was plainly denied to *Gaſpar Collignie* Admiral of *France*, as hee was Admiral, or had the Maritim Government; but it was granted him as Governor of the *Iſle of* France (as they call it) under the King. For, by the title of Admiral, hee had no Government in Chief within the limits of the Kingdom; but becauſ beeing Admiral of the Fleets and Sea (in the aforeſaid ſenſ) which is out of the King's Dominion, hee exerciſed Juriſdiction over Perſons and Affairs onely upon the Accompt of the Sea; therefore in this reſpect hee was to bee denied any place. For which cauſ likewiſe it came to paſs (as it ſeem's) that thoſe four diſtinct Admirals before-mentioned, have in like manner alſo a Government of Provinces, from which they are wont to bee denominated, as wee underſtand by theſe paſſages alreadie cited out of *Choppinus*, and others that write of this matter. So they that have any principal command within the limits of the Kingdom, that is, within the ſhores of *France*, do enjoie an equal privilege with the other more eminent dignities,

[1] *Ann.* 1552. 12 *Jan. ut Notatur in Edict. Regum Franciæ, tom.* 3. *tit.* 5. *in Margine. Jo. Tilius, l.* 2. *Simon Marion in Placit.* 5.

ties of the Realm. Moreover alſo, the Regulation of thoſe Rivers whereof the King of *France* is Lord, are not under the Admiral's Government, but under the ſpecial charge of thoſe Officers, that are called Preſidents or [r] Maſters of the Waters and Foreſts. That is to ſay, the publick Waters which are within the Bounds of the Kingdom, and over which the King hath Dominion, do belong to another dignitie; not at all to the Admiral, who, according to the general nature of his Office, is not appointed to take charge of any Province there, much leſs of the Rivers (as in *England.*) The principal intent therefore of this Office or Dignitie is onely to command the Fleets by Sea; For which cauſ alſo ſom years ſince *Henrie* of *Momorancie* Admiral of *France*, having ſet up a Statue on horſ back at *Chantillie* in honor of his Father *Henrie* Duke of *Momorancie* [s], call's himſelf in Latine onely *Navalis Militiæ Magiſtrum, Maſter of the Militia by Sea*, inſtead of Admiral, So that never any Admiral conſtituted by the French King either of *France*, or *Britain*, or *Aquitain*, had any autoritie in the Sea it ſelf, whereby hee might challenge a Dominion to himſelf as Governor or Commander in Chief; which may bee ſaid in like manner of all the Admirals of the *Belgick* and the neighboring ſhore on this ſide, and of the *Cantabrian* or *Spaniſh* ſhore on the other ſide: For, the autoritie of them all, ſo far as concern's this particular, hath been and is alike. Wee know indeed, that this dignitie was wont to bee ſtyled *Admiral of* France, *and Governor of the Roial Navie*, as the ſame Dignitie among the Engliſh was uſually called in the ſame manner, *Admiral of* England, *and Governor of the Roial Navie*, in [t] ſeveral Leagues that have been made betwixt the Engliſh and French: But it is clear by what hath been ſhewn, that they bare the Of-

[r] De quibus volumen grande conſcripſit *Sanctyonius*, & *vide Cod. Hen.* 3. *l.* 16.

[s] *Apud Andræam Cheſnium, in Hiſt. de Familiâ Momorancîacâ, l.* 5. *pa.* 445. *Anno* 1612.

[t] *Rot. Franc.* 10 *Hen.* 8. *ſeu* 1518. 4 *Octob. cum Franciſco primo. Roi. Fœder. & Tract. Jacobi Regis cum Ludovico* 13. *&c.*

fice or Dignitie called by the ſame name upon a different accompt; And the Qualitie of a Dignitie is to bee valued by the nature of the Charge, not by the bare name or title. And let ſo much ſerv to bee ſpoken touching the defect of antient Teſtimonies, and the Nature or Qualitie of the Government.

But now as to what concern's the moſt ample and entire Command of the Engliſh for very many Ages, and the comparing of it with thoſe ſeveral Governments heretofore on the oppoſite ſhore; it is moſt certain, that there was almoſt from the very beginning of the very firſt Times of the *Engliſh-Saxons* one entire Empire throughout *England*, and ſo on the whole ſhore which lie's over againſt *Germanie*, *France*, and that part of *Spain*, called *Biſcay*, and this alſo in the time of that *Heptarchie* which is mentioned by Writers: For, there was alwaies ſom one perſon who had moſt power therein, and to whom the reſt yielded obedience, as wee are told by [u] *Beda*. And touching that particular there is a notable Teſtimonie in *Alcuinus*, where by reaſon of the Quarrels betwixt *Offa* King of the *Mercians*, that is indeed, of the moſt large, and in a manner the moſt midland part of the *Heptarchie*, and *Charls* (ſirnamed the Great) King of *France*, Navigation was ſo [x] prohibited on both ſides, that Trade was wholly obſtructed; which truly cannot bee conceived, unleſs theſe large Territories near the Sea had been under the Dominion of *Offa*; yea, the Inſcription whereby *Offa* was wont to ſet forth his Roial Title, was often expreſt after this manner; [y] Offa, *by the Grace of God, King of the* Mercians, *and alſo of the Nations round about.* But after the time of *Egbert* or the 800 year of our Lord, there is a continued Catalogue plain enough of thoſe Kings whether *Engliſh-Saxons*, or *Danes*, who (unleſs

[u] *Hiſt. Eccleſ. l. 2. cap. 5. & vide Camden. in Brit. pag. 97.*

[x] *Alcuinus apud G. Malmſbur. de geſtis Regum, l. 1. c. 5. & inter Epiſt. Alcuini in operibus ejus, pa. 1669*

[y] *Hemmingus Ms. in C. d. Eccleſ. Wigorn. in* Bibliothecâ Cottonianâ *fol. 44. b. & 150. &c.*

(unleſs you fondly except *Edmund* the *Anglo-Saxon*, and *Canutus* the *Dane*, by whom the Kingdom was for ſom little time divided) did Reign without any other ſharer in the Dominion upon this ſhore. No wonder then that the Kings of *England* beeing entire and abſolute Lords in command of ſo ample a ſhore, for ſo many Ages, did alſo take ſpecial care to retein the Dominion of the Sea lying before it, as an Appendant of the Iſland; eſpecially ſeeing they not onely had ſo long and large a command likewiſe on the ſhore over againſt us, but alſo there were not any of their neighbors that could in any wiſe hinder it, except ſuch as poſſeſſed ſom pettie Countries bordering on the Sea (which truly may bee ſo called, beeing compared to the ſpacious ſhore of the Engliſh Empire) and thoſe alſo that were under diſtinct Juriſdictions.

The ſumme of all this is, ſeeing that about the beginning of our great Grand-Father's daies, there was onely a very ſmall ſhore conteined within the bounds of the French Kingdom, and the Lords of the Maritim Provinces, by the addition whereof that Kingdom (as wee have alreadie ſhewn) was afterwards enlarged, did not ſo much as pretend any Right to the Dominion of the Neighboring Sea, upon the intereſt of thoſe Provinces; and ſeeing no Teſtimonie can bee had in the Monuments of antient Writers concerning ſuch a kinde of Dominion, but that very many are found touching the Sea-Dominion of the Kings of *England*, they having continually poſſeſſed the whole *Engliſh* ſhore in its full latitude under one entire Empire for above a thouſand years, and concerning the perpetual enjoiment of the Sea, as an Appendant of the Kingdom; Therefore it follow's;

that their Right is very manifeſt in this particular, and ſo that the Sea it ſelf is a Province under the tuition or protection of the Admiral of *England*, as part of the Kingdom; but that the Admirals of the ſhore lying over againſt us are not in reaſon to bee called Governors of the Sea, in ſuch a ſenſ as may ſignifie any Dominion of a Commander in Chief in the Sea it ſelf, out of the Ports or other In-lets of that kinde. For which cauſ alſo it was, that ſom Ages ſince very many of the Neighbor-Nations underſtanding well enough the Right of *England*, made their Complaint in expreſs tearms againſt *Reyner Grimbald* Admiral of the King of *France*, becauſ that *l' Office del Admiralté en la mier d' Engleterre per Commiſſion de Roy de France tourcenouſment Empriſt & uſa un an & pluz*, &c. That is, *becauſ hee had arrogated to himſelf and for the ſpace of a year exerciſed the Office of Admiraltie, by the King of* France *his Commiſſion in the Engliſh Sea.* The old Records from whence this is taken, are ſet down entire by and by; where you have more alſo that make to the ſame purpoſe. And ſo much may ſerv to bee ſpoken touching the Guard or Government of the Engliſh Sea, as a part of the King's Territorie or Province and Patrimonie of the Crown.

That

That in the Dominion of those Islands lying before the shore of *France*, *which hath ever been enjoied by the Kings of* England, *it appear's that the possession of the* Sea wherein they are situate, *is derived from their Predecessors.*

CHAP. XIX.

THat a Possession and Dominion of this Southern Sea, hath been held also of old by the Kings of *England*, is not a little manifest by the Dominion of those Islands that lie before the shore of *France*. For, 'tis generally known, that after King *John* and *Henrie* the third were driven out of *Normandie* it self, that the Isles *Cæsaria* and *Sarnia* (which wee call **Jersey**, and **Garnesey**) **Aureney**, and som other Neighboring Isles lying near the shores of *Normandie* and *Bretaign*, yea and situated within that Creek of Sea which is made by the shore of *Bretaign* on the one side, and that of *Normandie* on the other, have in the following Ages, [b] both now and heretofore, remained in the Dominion of *England*. But by the sentence passed against K. *John*, as Duke of *Normandie*, for the murther of his Nephew *Arthur*, the French would have him deprived of all the Right hee had to *Normandie*. And afterwards [c] *Henrie* the third resigned his Right to *Normandie*. But suppose wee grant what is commonly received, that these Islands were of the *Nor-*

[b] *Rot. Claus. 2 Hen. 3. membr. 1. part. 1. Pat. 3 Hen. 3. membr. 3. & 5.*

[c] *Jo. Bucbetus in Annalibus Aquitaniæ, part. 4. & Cod. vet. Fœderum, &c. Ms. in Archivo Fiscali, fol. 1.*

Norman Juriſdiction, or belonging to the Dutchie of *Normandie*; yet truly even ſo, they neither could bee taken away by the ſentence, nor did they fall to the *French* by Reſignation, foraſmuch as the poſſeſsion of the Sea, and ſo of the Iſlands placed therein, was ſtill reteined; after the ſame manner almoſt as manie Priories were in *England* it ſelf, who though they were belonging to the *Norman* Government in Church-matters, yet even as they were of the Government of *Normandie*, they ever remain'd under the Dominion of *England*, as long as the Privileges of Monaſteries were in force among the *Engliſh*; as beeing ſituate within the undoubted bounds of the *Engliſh* Empire. Nor is it eaſily underſtood wherefore the Iſlands could have been ſo reteined, unleſs they alſo had been ſeated within the bounds of the *Engliſh* Empire in the Sea.

But the thing chiefly to bee conſider'd here *is*, that verie manie Foreign Nations, as well as the Eſtates of *England*, did in a Libel or Bill of Complaint publickly exhibited in the time of King *Edward* the Firſt, and King *Philip the Fair*, before a Court of Delegates ſpecially in that behalf by them appointed, in expreſs terms acknowledg that the King of *England* hath ever been Lord not onely of this Sea, but alſo of the Iſlands placed therein, *par raiſon du Roialme d' Angleterre*, *upon the account of the Realm of* England *or as they were Kings of* England. Which truly is all one, as in moſt expreſs terms to aſcribe this whole Sea unto them, as far as the Shores or Ports lying over againſt us. But concerning that Libel, I ſhall add more by and by. Nor is it to bee omitted, that the addition of a Shore, larger than that of *Picardie*, to the Kingdom of *France*, hapned firſt at

that

that time, wherein those Isles were so reteined by the *English* after they were outed of *Normandie*: For before, the Shores of *Aquitain*, *Bretaign*, and *Normandie*, were in the possession of other Princes; that of *Aquitain* and *Normandie* beeing possest by the *English*, and that of *Bretaign* by the Duke or Earl of that Countrie: So that the *French* King had neither any shore almost, nor any considerable use of Sea-affairs at that time; by which means also the *English* did with the more ease retain the aforesaid antient possession of the Sea and the Isles, after they were deprived of the *Norman* Dutchie. And this sufficiently appear's also by that Sea-Fight perform'd between the *French* Fleet (commanded by *Eustachius* the Monk, in the time of *Philip Augustus* King of *France*) and the *English* Fleet under the Command of *Philip de Albenie* Governor of the aforesaid Islands, and *John Marshal*, who both carefully guarded the passages of the Sea, in the beginning of the Reign of *Henrie* the Third. That is to say, a *French* Fleet of about 80 Sail was designed to transport Auxiliarie Forces out of *France* for *Lewis* (afterwards the Eight of that name that was King of *France*) who through the Treason of som Conspirators, made War upon the *English* King in *England*. This of the *French* was assailed by an *English* Fleet of 40 Sail. But [d] *Roger of Wendover* and *Matthew Paris* tell us, *that part of the* French, *who had not been used to Sea-Fight, was in a short time wholly defeated.* Observ here, they say that hitherto the *French* were not accustomed to Fights by Sea. But of the *English* they say, *the* English *being warlick and skill'd in Sea-Fight galled them with Darts and Arrows, ran them through with their Lances, did execution with their Swords, sank their Ships, and*

[d] *Ms. in* Bibliothecâ Cottonianâ.

blinded them with Lime (which they did by throwing the Powder of Lime into the Aër, ſo it might bee driven by the winde into the *French*-men's eies) *They were deprived alſo of all hope of relief and ſuccor, and know not which way to flie.* The *Engliſh* at that time time beeing expert in Sea-Fight, did by this means make good the poſſeſsion of their Sea, and the Iſles alſo that are ſituate therein: For, even this Fight relate's to the ſecond year of *Henrie* [c] the Third, or the year of our Lord MCCXVIII, that is, at the ſame time almoſt when the *Engliſh* were firſt deprived of *Normandie*. But as to that which is commonly ſaid, that theſe Iſlands firſt belonged to the Engliſh *Norman* [f] right, or by the right of the Dutchie of *Normandie*, it is as eaſily denied as affirmed by any. Nor is there any weight in this Reaſon, that becauſ thoſe Iſlands have and ever had certain Cuſtoms like the *Norman*, therefore they do belong to *Normandie*: For, the *Norman* Cuſtoms are often uſed in *England*, as the *Roman* are ſomtimes by other Nations; yet everie man know's this can bee no ground for ſuch an Argument. Nor is it any more to the purpoſe, that thoſe Iſlands were within the Dioceſs of the Biſhop of *Conſtances* in *Normandie*, until that in our Grand-father's daies they became ſubject to the Biſhop of [g] *Wincheſter*. Their Eccleſiaſtick Government was a long time derived out of *Normandie*, with more convenience indeed becauſ of the nearneſs of the place; which began, as it is to bee ſuppoſed, in thoſe daies when the *Engliſh* poſſeſſed the Shores on both ſides: But it doth not follow thence, that thoſe Iſlands belong'd to the Dutchie of *Normandie*, any more then that the many Priories heretofore in *England*, who were of foreign Juriſdicti-

[c] *Matth. Paris, pag.* 398. Edit. Londin.

[f] *Ed.* Coke, *in Comm. Juris Anglic. part.* 7. *in Calvini caſu, fol.* 20. *&* 21. *Guil. Camden. inſulis Brit. pag.* 855. Alii; quod & admittitur in diplomatum aliquot recentiorum proœmiis, veluti *Rot. Pat.* 7. *Eliſabethæ R. part.* 3. Herelio de Carteret, *Rot. Pat* 2. *Jacobi, part.* 19. *&* 19. *Jacobi part.* 24. ubi de Inſularum privilegiis.

[g] *Videſis Rot. Pat.* 11. *Eliſabethæ, R. part.* 8. *in dorſo.*

on

on in Eccleſiaſtical matters, did therefore belong to the Dominion of foreign Princes, and not to that of the *Engliſh* Kings, as Kings of *England*. That is every jot as weak alſo which they uſe to allege about the *Norman* Languages beeing in uſe among the Inhabitants of thoſe Iſlands. The people of *Cornwal* in *England* have alwaies uſed the *Welch* Tongue, at leaſt with a little alteration in the Dialect, as the *Bretaigns* do alſo in *France*; In like manner the Inhabitants of the *Iſle of Man* uſe the *Iriſh* Tongue; yet no man will conclude thence, either that this paie's obedience to the Kings of *England*, as Lords or King of *Ireland*, or that the other are ſubject to their Princes by any right of the *Welch* Principalitie. Wee know indeed, that ſomtimes ſlight mention is made not onely in the proëms of ſom Charters of later times, but alſo in ſeveral antient Petitions of the Iſlanders, that thoſe Iſlands belong'd heretofore to the Dutchie of *Normandie*, and upon that account were held by the Kings of *England*: But yet wee know as well, that thoſe Provinces which in Antient time were derived by Inheritance to our Kings in *France* (of which kinde truly theſe Iſlands are to bee reckon'd, if they were held as parts of *Normandie*) were alwaies permitted ſo to uſe their own Cuſtoms and antient Forms of Juriſdiction, that they were not at all ſubject to the [h] ordinarie Juriſdiction of the Courts of *England*. The ſame privilege was ever allowed likewiſe to the people of *Aquitain*, *Anjou*, *Normandie*, and others. Yea, and ſom Ages ſince, the Kings of *England* were pleaſed to order, that ſuch Controverſies as hapned there ſhould not bee decided in any other place out of the Iſlands, but in their own Courts of Judicature: whereas notwithſtanding

[h] *Vide* 11. *Hen.*8. Bele-wag, *fol.* 202. *plac.*19.

it is moſt certain, that in the Reigns of *Edward* the [i] *Second* and [k] *Third* (times which without doubt made good ſearch into that Right, whereby thoſe Iſlands were annexed to the Patrimonie of the Kings of *England*) there were *Juſtices Itinerant*, that is, Officers created of old, who were often by ordinarie right to take cogniſance eſpecially of the more heinous crimes through all the Counties of *England*; alſo of ſuch Rights and Privileges of the Crown as were uſurp't and arrogated by any, and of other matters for the moſt part that are uſually brought into Courts of Juſtice, who beeing [l] ſomtimes alſo called *Juſtitiæ errantes*, **Juſtices errant**, were wont to bee ſent forth into thoſe Iſlands as well as into the Counties of *England*; though the Inhabitants did indeed exclaim, and ſomtimes preferr'd their Petitions againſt this kinde of Juriſdiction. But yet it is moſt certain that the opinion of thoſe very Officers (who were themſelvs learned in the Law) then was, that thoſe Commiſſions whereby they were ſo inabled to adminiſter Juſtice in thoſe Iſlands were not onely grounded upon Law (which was the opinion alſo of thoſe who ruled at that time in this Nation) but alſo that the very Provinces of the Iſlands were ſo incorporated one with another, as they are all with *England*, throughout the extent of that Sea which lie's between, after the manner of our *Engliſh* Cuſtom in the Provinces or Countries, that, a Cauſ beeing ſomtimes inlarged, they might appoint daies of Appearance to any Inhabitants of thoſe Iſlands, in the *King's Bench* in *England*, as well as to the Inhabitants of any one of the Iſles in the other, after the ſame manner as is uſed within *England* it ſelf: Which appear's by the Commiſsion of *John de* **Scardeburgh**

[i] *Rot. Placit. de Inſulis*, 2. *Ed.* 2 *&* *Rot. Pat.* 15. *E.* 2 *part.* 1. *Membran.* 21.

[k] *Mich.* 5. *Ed.* 3. *rot.* 183. *coram Rege, & Mich.* 6. *Ed.* 3. *rot.* 181. *coram Rege*, penès Camerarios Scaccarii, 2. *Ed.* 3. *fol.* 5. *ſeu* 32. *b. & Itin. Tempore Ed.* 3. *fol.* 138. *a.*

[l] *Jo. Sareſburienſis, de Nugis Curialium, lib.* 5. *cap.* 15. *&* 16.

Scardeburgh and his Fellow-Juſtices in the time of [m] *Edward* the Third, and [n] others of that Age. But it was never heard, I ſuppoſe, that upon ſnch an inlargement, a time of Appearance might by our Common Law bee appointed in any other place but that which is of the ſame Juriſdiction (as conteined within the Patrimonie of the Crown) whereto alſo that place belong's out of which any one is ſo adjourned. Nor do I remember, that any ſuch thing was ever ſo much as attempted in thoſe Provinces, which were not reckoned in the Patrimonie of the *Engliſh* Empire; yet poſſeſſed upon another Title by the King of *England*; as the Dutchies of *Anjou*, *Normandie*, *Aquitain*, and the like. Moreover alſo, in the more antient Charters of ſom of our Kings, in confirmation of the [o] Privileges of Iſlanders, they are noted more than once for ſuch Privileges as they *or their Anceſtors or Predeceſſors have enjoied under the obedience of any of our Progenitors beeing Kings of England.* Surely, if it had been then believed, that thoſe Iſlands were a part of the Dutchie of *Normandie*, it is not to bee doubted but they had added alſo *or Dukes of Normandie*, which wee finde truly in ſom Charters of [p] later time, yet ſo that in theſe alſo thoſe Iſles are ſaid in expreſs terms, and that upon verie good ground, to bee retained *in fealtie and obedience to our Crown of England.* But, in the time of *Edward* the Third, the Iſlanders petitioning the King in Parlament for their Privileges and Cuſtom's which had been eſtabliſhed time out of minde, annexed the Cuſtoms of ſom of the Iſlands, among which are theſe; Item, *that no man ought to bee queſtioned about his Freehold, after hee hath quietly enjoied it a year and a day, unleſs it bee by Writ taken out of the Chancerie of our Lord the King, making ſpecial mention both of the Tenement it ſelf and of the Tenant.*

[m] *Mich.* 5. *Ed.* 3. *Rot.* 183. *coram rege, & Mich. rot.* 5. *& 6. Ed.* 3. *paulò antè citatis*, 181. *coram Rege*, penès Camerarios Scaccarii.

[n] *Rot. Placit. de Inſulis*, 2. *Ed.* 2. *rot.* 30. *in dorſo*; in Arce Londinenſi.

[o] *Rot. Pat.* 2. *Ed.* 6. *part.* 7. *ubi* Inſpeximus. 1. *Henrici.* 8. *&c.*

[p] *Rot. Pat.* 2. *Jacobi*, *part.* 19.

Item, *That they ſhall not bee put to Anſwer before the King's Juſtices of Aſsiſe, until they firſt give them Copies of their Commiſsions of Aſsiſe under their Seals.* Item, *that the King's Juſtices aſsigned by Commiſsion for the holding of Aſsiſe, ought not to hold Pleas here longer than the ſpace of three weeks.* Truly, theſe antient Cuſtoms ſeem ſo to reliſh, as if thoſe Iſlands had been ſubject to our Kings & their ordinarie Juriſdiction, by the right of Engliſh Empire, not by the *Norman*; although the Iſlanders inſinuate alſo in the ſame Petitions, that they were a part of the Neighboring Province of *Normandie*. Add hereto alſo, that the iſle of *Serk* was granted by Queen [q] *Eliſabeth* to *Herelie de Carteret*, to bee held *in Capite* by him and his heirs; that is to ſay, as a *Feud* belonging to the patrimonie of the Crown of *England*; notwithſtanding that it bee unawares, or elſ careleſly admitted in the Charter of this Grant, to bee within the Dutchie of *Normandie*. But in the Treatie held at *Chartres*, when *Edward* the third renounced his claim to *Normandie*; and ſom other Countries of *France* that border'd upon the Sea, it was added, that no controverſie ſhould remain touching the Iſlands, but that hee ſhould hold all Iſlands whatſoever which hee poſſeſſed at that time, whether they lay before thoſe Countries that hee held, or [r] others: For, reaſon required this to maintain the Dominion by Sea. Yea, both *Jerſey*, and *Gernſey*, as alſo the Iſles of *Wight* and *Man* are ſaid in divers Treaties held betwixt the Kings of *England* and other Princes, *to belong unto the Kingdom of England, and to lie* [r] *near the Kingdom of England.* Theſe Iſles alſo were granted heretofore by King [t] *Henrie* the fift to his brother *John* Duke of *Bedford*, *without any recognition to bee made unto Us or Our Heirs, notwithſtanding any Prerogative of the Crown for any other Tenure held of Us out of the*

[q] *Rot. Pat. 7 Eliſ. part. 3*

[r] *Tho. Walſingham, Anno 1360. ſub 34 Ed. 3.*

[r] *Fœder. 1542. inter Cæſarem & Hen. 8. & Fœder. 1585 inter Eliſab. R. & Ordines Fœderatos Belgii*; quorum tranſſumpta in Bibliothecâ Cottonianâ.

[t] *Rot. Franciæ, 3 Hen. 5. Membran. 6. num. 12 Novemb. 27.*

the ſaid Iſlands, which may in any wiſe belong unto the ſaid Iſlands, Caſtles, or Dominions. Which words ſeem not in the leaſt meaſure to admit any Right of the *Dutchie.* Perhaps alſo that antient cuſtom was as a token or pledg of the Sea's Dominion beeing conjoin'd with that of the Iſles, whereby *all the Fiſh* (as it is in the Records of [u] *Edward* the third) *taken by the Fiſhermen of our Iſles of* **Gerneſey, Jerſey, Serk,** and **Aureney,** *in the Sea, between* Eaſter *and* Michaelmas, *is according to the Cuſtom of thoſe places acknowledged to belong unto Us at a reaſonable rate to bee paid therefore, and that the ſaid Fiſhermen are bound to carrie all the Fiſh by them taken between the Times aforeſaid, unto certain places in thoſe Iſles appointed, that the Officers under our Governor of the aforeſaid Iſles, may take thence for our uſe, at what price they ſhall think fit and reaſonable.* Nor is that to bee ſlighted, which wee finde in the Chronicles of the Abbie or Monaſterie of *Teuxburie*, concerning *Henrie Beauchamp* Duke of *Warwick*, who was inveſted by *Henrie* the ſixt with the Title and Dignitie of King, not onely of the Iſle of *Wight* but alſo of *Gerneſey*, and *Jerſey*, whereunto the other Iſles in this Tract do in a civil ſenſ belong. The ſame thing is recorded of the Iſle of *Wight* by that Learned man [x] *William Camden*, and that out of the ſame Book. The [y] Book it ſelf ſpeak's after this manner; *But the noble Lord* Henrie *Duke of* Warwick *and firſt Earl of England, Lord* **Le Diſpenſer,** *and de* **Abergeveney,** *King of the Iſles of* **Wight,** and **Gardſey,** and **Jardſey,** *Lord alſo of the Caſtle of* Briſtol, *with the appurtenances thereunto belonging, died* 3 Idus Junii, Anno Dom. 1446. *in the twentie ſecond year of his Age, at the Caſtle of* Hanley, *and was buried in the middle of the Quire at* Teuxburie. And a little before it is ſaid of the ſame man, *that hee was Crowned King of* **Wight** *by the King's own hand*

[u] *Rot. Finium, 31 Ed. 3. Membran. 18.*

[x] *In Britann. pag. 200. & 430.*

[y] *Ms. in Bibliotheca Cottoniana.*

hand, no expreſs mention beeing made in that place of the other iſlands, but they reckoned in the ſame condition with this, as they were part of the patrimonie of the Kings of *England*. But it is not to bee believed, that thoſe Iſles which lie before the ſhore of *Normandie*, had been ſo turned into a Kingdom, though ſubject to the Crown of *England*, unleſs even they alſo who made them a Kingdom, had conceived that they poſſeſſed them before by a Title ſuperior to that of the *Dutchie*; that is to ſay, by a Kingly Title. As King *Richard* the ſecond, when hee had determined that *Robert* Earl of *Oxford* (who alſo was Marquiſs of *Dublin*, and Duke of *Ireland*) ſhould bee creâted [z] King of *Ireland*, queſtionleſs did not doubt but that hee himſelf in the mean time poſſeſſed that Iſland by no leſs a Title and Dignitie than of *King*, although the name of *Lord* was wholly uſed there at that time [a] in ſtead of *King*, as alſo until the latter end of the Reign of *Henrie* the eight. So it is conceived upon good ground, that thoſe Iſles, and the Sea lying about them did, though they uſed different Cuſtoms, conſtitute one entire Bodie of Empire with the Kingdom of *England*. Whereunto alſo that ſpecial privilege of theirs doth relate, whereby through the favor of the Kings of *England*, they enjoie the benefit of freedom from hoſtilitie by Sea, though there bee a Warr on foot between the Neighbor-Nations round about; but of this more [b] hereafter. And in their Court-Records which contain the Acts or Decrees of the aforeſaid *Juſtices Itinerant*, wee very often finde *Pleas of the Crown*, which phraſe is an Evidence of the Engliſh Government. Alſo, in [c] their Trials, thoſe Forms [*In contempt of our Lord the King, his Crown and Dignitie*] and [*Our Lord the King was ſeiſed of the aforeſaid Advouſen in time of Peace, as of his* Fee, *and in Right of his*

[z] *Tho. Walſingham in Rich. 2. anno* 1386. *pag.* 352. Edit. Londin.

[a] *Statut. Hibernic.* 33 *H.* 8. *cap.* 1.

[b] *Cap.* 22.

[c] *Rot. Placit. de Inſulis*, 2. *Ed.* 2. *Rot.* 21 & 30 *&c. in arce Londin.*

his Crown] and others not a few of that kinde wee meet with, which savor not of any Right of the *Dutchie*. Add moreover, that the King of *England* so held the Right heretofore, not onely of the Isles over against the shore of *Normandie*, but of those also which are opposite to *Aquitain* (as a pledg or concomitant of his possession of that Sea, so far as it belong'd to the patrimonie of the Kingdom of *England*) that though our *Henrie* the third renounced his claim to no small part of *Aquitain*, yet that Isle lying before it, called *Oleron*, (no less famous in the West for [d] Naval Laws, than *Rhodes* was of old) hee granted to his eldest son *Edward* to bee held in time to com, as a perpetual Appendant of the *English* Crown: For, this Claus was added to the Grant [*so* [e] *that the said Isle may alwaies remain to the Crown of* England, *and never bee alienated from the same.*] Also in his Letters granted to the Inhabitants of *Oleron*, hee saith, [f] *Wee will not in any wise sever you from the Crown of England.* Som years before also, hee in like manner made a Grant of [g] *Gascoign* (or those parts which lie upon the shore of *Aquitain* near the Sea) to Prince *Edward, upon condition it should remain entirely and for ever to the Crown of England.* So without doubt his intent was, that both the Sea-Coasts, and this Isle should in a special manner bee possest by the said Prince, but by no means bee disjoined from the English Empire, any more than the Sea its self, which washt their shores. And although after a while, both this and som other neighboring Isles, did many Ages since, for divers reasons, follow the fate of those *French* shores which lie next to them, yet in the mean time the Dominion of the Sea remained entire, as it did before, to the Kings of *England*; as it sufficiently appear's by those other passages which wee have shewn.

[d] Of which see more in the twentie fourth chapter.

[e] *Cod. vet. Fœderũ, &c. Ms. anno* 1259. *Penes Camerarios Scaccarii.*

[f] *Cod. Vet. Ms.* in Biblioth. Cottonianâ, *de Rebus Aquitanicis, fol* 3.

[g] *Rot. Vascon.* 38 *Hen.* 3. *membr.* 8. *Matth. Paris, pa.* 1187. *seu* 1207. *Edit. Lond.* Florilegus, *ann.* 1254. *& Cod. Vet. Ms. de reb. Aquitan. in Biblioth. Cotton. fol.* 66.

The Dominion and poſſeſsion of the Sea aſſerted on the behalf of the Kings of England, from that leav of præter-Navigation *or* paſſage which hath been uſually *either* granted by them to *Foreiners*, *or* deſired from them.

Chap. XX.

THoſe things which wee have hitherto alleged concerning this poſſeſsion and dominion, are confirmed by ſeveral Paſsports that have been obteined from the Kings of *England*, for leav to paſs through this Sea; whereof wee have clear Teſtimonies in Records: that is to ſay, granted at the intreatie of Foreiners. Our *Henrie* the [a] fourth granted leav to *Ferrando Urtis de Sarachione, a Spaniard, to ſail freely from the Port of* London, *through our Kingdoms, Dominions, and Juriſdiction, to the Town of Rochel.* It is manifeſt, that in this place *our Dominions and Juriſdiction* do relate to the Sea flowing between. And when *Charls* the ſixt King of *France* ſent Ambaſſadors to *Robert* the third King of *Scots*, to treat about the making of a League, they upon requeſt made to the ſame *Henrie* obteined Paſsports for their ſafe paſſage *par touz* [b] *noz povoirs, deſtrois & Seigniories, par Mer, & par Terre*, that is, **through all places under our Power, Territories, and Dominions, as well by Sea as by Land.** There are innumerable other Letters of Paſsport (called *ſafe Con-*

[a] *Rot. Franciæ, 5. Hen. 4. membr. 11. Jan. 5.*

[b] *Ibid. mem. 14.*

Conducts) in the Records, especially of *Henrie* the fift and sixt, whereby safe Port and Passage was usually granted *as well by Sea as by Land and Rivers*, that is to say, throughout the whole Dominion of him that made the Grant. And it is worthie of observation, that this kinde of Letters were usually superscribed and directed by our Kings to their Governors of the Sea, Admirals, Vice-Admirals, Sea-Captains, to wit, the Commanders appointed by the King to take care of his Territorie by Sea; whereas notwithstanding wee finde no mention at all of any such Commanders in those Passports of that kinde which were granted heretofore by the *French* King to the King of *England*, when hee was to cross over into *France*. Letters of that kinde were given to our *Edward* the second by King *Philip the Long*, superscribed onely thus,[c] *Phelip par la grace de Dieu, Roy de France, A touz noz Justiciers, & subgies salut. Philip by the grace of God, King of* France; *To our Judges and Subjects greeting*. But the reason is evident, why the K. of *England* was wont to direct his Letters to his Commanders of the Sea, and the *French* King at that time onely to his Judges and Subjects in general: To wit, becaus the King of *England* had his Sea-Commanders throughout this whole Sea, as Lord of the same, and therefore when hee crost over, it was not reasonable that the *French* K. should secure him by Sea, it beeing within the bounds of the *English* Territorie: And yet the King of *France* might perhaps have an Admiral at that time, but onely upon the shore of *Normandie* and *Picardie*; For, that of *Aquitain*, *Bretaign*, and *Narbonne*, were not as yet added to the patrimonie of that Crown: And it was about that time, or a little before, that they are placed, who are first ranked in the Catalogue of the Admirals of *France*. But of later time it is true indeed, that in those Passports

[c] *Rot. Claus. 13 Ed. 2. membr. 7. in dorso.*

or Letters of safe Conduct, which have been granted even by the [d] French King, and other Princes bordering upon the Sea, *Admirals* are usually named in express terms among the other kindes of Roial Officers; to the end that they to whom the Passports are granted, may bee secured in every place and part of their Dominion. But as touching the English Command over such as pass or sail through their Sea, there are many other Arguments taken (as wee shall shew by and by) from the manner of our King's prescribing limits to such as sail in this Sea; as also from those passages which wee have [e] alreadie cited out of Records, concerning the Tributes or Customs imposed by the English upon such as passed through the Sea. And truly it is very considerable also, that the Kings both of *Denmark* and *Sweden*, together with the *Hanse-Towns*, very often and earnestly begg'd of Queen *Elisabeth*, that they might have free passage through the English Sea with Provisions towards *Spain*, during the Warr betwixt her and the *Spaniard*. I know indeed that such a Licence was denied them not onely in respect of the Dominion of the Sea, but chiefly to prevent the conveying of Provisions to the Enemie. For which cause also divers Ships belonging to the *Hanse-Towns* laden with Corn, were [f] taken by English men of Warr, in the very Streights of *Lisbon*, without the Sea-Territorie of *England*, which went by the [g] *Scotish* Sea, and the West towards *Portugal*; which was don doubtless that they might not presume to use the *English* Sea, without the leav of the Queen. But the *Hanse-Towns* cried out thereupon, that the Laws of Nations, Commerce, and Leagues, were violated; becaus their ships were so taken by the *English* onely upon this account, that they carried Provisions to the Enemie; that is, in a Territorie,

[d] *Stilus & Protocoll. Cancellariæ Franc. cap.* de Passaiges & Sauf-Conduits.

[e] Chap. 14. of this Book.

[f] 30 Junii, 1589. quâ de re *Declaratio* tunc Londini typis Edita.

[g] *Thuanus, Histor. l.* 95.

rie, where the *English* did not in the least pretend to any Dominion. And concerning this particular, there is a notable Question controverted by very [h] Learned men, *How far they that are not enemies, or would not bee called enemies, may by the Law of Nations afford supplies unto an enemie.* But som years before the taking of these ships, when the *Hamburgers* (who in the name also of the rest of the *Hanse-Towns*, desired leav to pass through this Sea to *Portugal* and *Spain*) were more than once denied any kinde of libertie to transport either Corn or Warlike necessaries; they did not at all suggest, that their Petition at that time was grounded upon the Law of Nations or Commerce, nor that the Queen's denial was contrarie to this kinde of Law. That is to say, they were by her first [i] Answer enjoined to abstein from transporting Arms with other Warlike Necessaries and Corn, *but* (saith the Queen) *in transporting other commodities, wee shall not hinder you at all, but shall with all favour permit the ships of your Subjects to abide and pass after the accustomed manner, that they may perform their Voiage.* This Answer they did not seem to take amiss. But two years after they sent into *England Sebastian à* **Berghen** their Ambassador with Petitionarie Letters, desiring that the Exception in the Licence formerly granted might bee taken away, and a freedom to transport all kindes of Merchandise permitted. Their Petition was denied again, and this moreover added, *That such as should presume to do the contrarie, should for th ir bold presumption suffer the loss of all their Goods and Merchandise so carried against her Majestie's will and pleasure, if they fell into the hands of her Men of Warr, or any other of her Majestie's Subjects.* Thus they ever addressed themselvs by Petitions; and the Queen gave Answers according to her pleasure. They did not so much as pretend the Laws of Nations or of

[h] *Albericus Gentilis, de Jure Belli, li. 1. cap. 21. Hispanic. Advocat. li. 1. cap. 20. & Hugo Grot. de Jure Belli & Pacis, l. 3. cap. 1. § 5.*

[i] 1585. As you may read in the Queen's Declaration, 1589.

Commerce, before that they understood their ships were seised in another Sea, to wit, that of *Portugal*, which they conceived free for themselvs by the Law of Nations and Commerce, without leav from the Queen of *England*. Then it was they began to plead, that Libertie ought not by any Law to bee denied; even these men who but som years before, had humbly Petitioned the Queen of *England*, more than once for free passage through the English Sea: So that, that principal point (as som would have it) of the Law of Nations, that relief ought not to bee conveyed to Enemies by a Friend, was not onely the ground either of the *Hans-Town's* Petition, or the *Queen's* denial, but her right of Dominion by Sea was concerned also, which the *Hans-Towns* well knew they should violate, if they should pass the Queen's Seas without her leav.

Hereunto for the same reason those particulars relate, which wee finde concerning this matter in those points that were to bee insisted on in the year MDXCVII. by *Witfeldius*, and *Bernicovius*, Ambassadors from *Christiern* the fourth, King of *Denmark*, to the Queen of *England*. [k] *Wee were* (say they) *strictly enjoined by our King, to mediate with her Majestie, that our Countrie men may bee permitted a freedom to transport Corn or Provision towards* Spain, *even as wee have don formerly, and do now again with all earnestness desire, especially since it is supposed, that the same Licence of transporting Corn is granted somtimes both to English and Dutch; that our Countrie-men may not bee used in a worse manner than your own Subjects, and that at least som certain ships might in favor of the King's Majestie, have leav granted them once a year at least, during the Warr, to carrie Provisions; and that wee may bee able to certifie the King our Master, how far wee in this case prevail.*

[k] In the Records of the Embassie in Sir *Robert Cotton's* Librarie.

prevail. But the Ambaſſadors had this Anſwer; *that the Queen cannot in reaſon bee induced to conſent it ſhould bee don as they deſired. And whereas you allege a ſuppoſal, that both Engliſh and Netherlanders have Licence given them ſomtimes to tranſport Corn, Wee* (to wit, the Chief men of her Majeſtie's Privie-Council, who gave the Anſwer) *dare confidently affirm, that never any ſuch matter was granted by the Queen, nor will ſhee ever incline to grant the like, during the warr.* If the Queen had not in the opinion of the *Danes*, (as well as of the *Hanſ-Towns* before) been Soveraign of the Sea-Territorie, through which they were to paſs, to what end then was this ſo earneſt a Petition, and ſo imperious an Anſwer? Here, in this often iterated Petition, no libertie is pretended beſides that which depended upon the Queen's pleaſure, as Soveraign of the Paſſage.

For this cauſ alſo it was, that *John* King of *Sweden*, in that Letter of his ſent to Queen *Eliſabeth* in the year 1587. wherein hee deſired leav for *Olavus Wormæus* a Swede, to carrie Merchandiſe into *Spain*, acknowleged, that hee muſt of neceſsitie *Maritimas Reginæ ditiones pertranſire, paſs through the Sea-Dominions of the Queen*, which are the very [l] words of the Letter. Nor is it any new thing, that this kinde of paſſage ſhould bee denied to Foreiners: For, in very many of thoſe Paſs-ports that were granted to the Merchants of Neighbor-Nations by *Edward* the firſt, during the warr between him and the French, this clauſ is uſually added, [m] *upon condition, that they neither conveie nor cauſ any thing to bee conveied to the French partie, nor communicate any thing at all to our Enemies there in any manner whatſoever*, as wee read it in the Records, where are many others of the ſame kinde. From hence it is, that in the ſame King's inſtructions, it is required, that his Soveraign-

[l] *In Sir* Robert Cotton's Librarie.

[m] *Rot. Pat. 24 Ed. 1. memb. 5. & 25 Ed. 1. par. 1. membran. 2. 7. 16. &c.*

raigntie by Sea bee preſerved with extraordinarie care and diligence, as belonging to him by antient right, as Arbiter and Moderator of the Laws or Cuſtoms, and Perſons, of ſuch as paſs therein. The words themſelvs, which ſignifie the ſame, are theſe, [n] *Eſpecialment à retenir & maintenir la Sovereigneté qe ſes anceſtres Royes d' Engleterre ſoloyent avoir en la dite Mier d' Engleterre, quant à l'amendement, declaration & interpretation des lois per eux faits à Goverver toutes Maneres des gentz paſſanz per la dite mier*, **eſpecially to retein, and maintain the ſoveraigntie which his Anceſtors the Kings of** England **were wont to have in the ſaid ſea ſo far as concerns the amendment, declaration, and interpretation of the Laws by them made to govern all manner of Nations paſſing through the ſaid ſea.** Hereunto alſo belongs that Commiſsion of King *John*, whereby hee required in very imperious terms, that all kindes of ſhips whatſoëver which could bee found throughout the Engliſh Sea (it beeing expreſſed by the general name of the Sea, as flowing round about) ſhould bee ſtaid and beé brought near his ſhores: For, it hath been a Cuſtom in all Ages, that the ſhips of any perſons whatſoëver, as well Strangers as Subjects, may ſomtimes bee ſtaid in the Ports. But it was King *John's* intent, that his whole Sea as well as the Ports themſelvs, ſhould bee plainly ſignified in this Commiſsion. In witneſs whereof I here ſet down the Commiſsion it ſelf. *The* [o] KING *to all the Sturemanni and Marinelli and Merchants of* England *that ſail by Sea greeting. Bee it known unto you that wee have ſent Alanus Juvo de* **Soxham** *and Walter* **Stattun**, *and Vincent de* **Haſtings** *and Wimund de* **Winchelſey**, *and others of our Barons of the Cinque-Ports, and other our faithful Sturemanni, and Marinelli of our Gallies, to arreſt all ſhips that they ſhall finde, and them ſafely*

[n] *Faſcic. de Superioritate Maris Angliæ*, in Arce Londinenſi.

[o] *Rot. Pat. 9. Johann. R. Membran. 1. Num. 3.*

safely to bring, with all that shall bee found in them, into England. *And therefore wee command you, that yee bee attending upon them in this business, so that yee bee in* England *with all your Ships and Merchandises at such Port and Coast as they shall appoint you. And if any shall attempt to resist them contrarie to our command, you, our Liege-men, are required to assist them with all your strength, as you tender your selvs and your chattels, and peace and residence in our Land for you or any of your Generation. Witness hereunto William* Briw *at* Lutegar, *the eight daie of Februarie.* These *Sturemanni* here do signifie Sea-Captains, and *Marinelli* Sea-souldiers. But to command that all ships should bee *arrested* throughout the Sea, that is, staid or taken, and brought into *England*, what elf was it but undoubtedly to declare himself Lord of the Sea through which they passed? Now let no man object, that this Commission extended onely to the Ships of *English* men, or of the Subjects of him that gave the Commission. It is true indeed, that the Commission before cited, was sent and directed onely to the Sea-Captains, Men of Warr, and Merchants of *England*: But yet it is manifest thereby, that the four persons there named, and others Barons of the Cinque-Ports, and the rest that are added, were obliged by the aforesaid Commands *to arrest all the ships that they should finde throughout the Sea, and bring them safely into* England, *with all that should bee found in them.* But this part of the Commission was added (as it plainly appear's) that no English Sea-Captain, or Souldier, or Merchant whatsoëver, might bee wanting in their assistance, in staying the ships of Foreiners; *If anie one shall attempt to resist them contrarie to our command, you, our Liege-*

men are required to aſsiſt them with all your, &c. Our *Liege-men* in this place, or they that ought to give aſsiſtance in making ſtay of ſhips, are all the Sea-men and Merchants of *England* that ſail up and down throughout this Sea. They therefore whoſe ſhips were to bee ſtaid, did not com under the name of *Liege-men*, or Subjects; and that it ſo appear's to bee by the very Form of this Commiſsion, that there need's not any thing more bee added touching this matter, I ſuppoſe no man will doubt, who take's it into his more ſerious conſideration. Nor do the words make mention of the ſhips of Enemies, but of any whatſoever; as beeing deliver'd by a Soveraign Prince, who was concerned at that time, for his own occaſion, and at diſcretion, to uſe not onely his own Sea-Territorie, but alſo the ſhips ſailing therein, as well as thoſe that were in Port.

Wee finde a Commiſsion of the like nature, and which ſpeak's to the ſame purpoſe, in the time of King *Edward* the third, wherein Command is given to make ſtay of all ſhips of ten Tuns and upward, that ſhould bee found in the South and Weſtern Sea (except ſom that were newly deſigned to croſs over into *Bretaign*) that they might bee arm'd and ſet forth in the King's ſervice. The Title of this Commiſsion is, *De Navibus arreſtandis & capiendis*, **For arreſting and ſeizing of ſhips.** The Form of it run's thus; *The* KING *to his beloved Thomas de* **Wenlok** *his Serjeant at Arms, Lieutenant of our beloved and truſtie Reginald de* **Cobham,** *Admiral of our Fleet of ſhips from the mouth of the River Thames towards the Weſtern parts, greeting. Bee it known unto you, that wee have appointed you with all the ſpeed that may bee uſed by you, and ſuch as ſhall bee deputed by you,*

you, to arreſt and ſeiz all ſhips, Flie-Boats, Barks, and Barges of ten Tuns burthen and upward, which may happen to bee found in the aforeſaid Admiraltie, (that is, in the Sea reaching from the *Thames* mouth toward the South and Weſt) *and to cauſ the Flie-Boats, Barks and Barges aforeſaid, to bee well and ſufficiently arm'd and provided for the warr, by the Maſters and owners of the ſame, and to bring them ſpeedily ſo provided and arm'd to* Sandwich, *except onely the ſhips that are order'd for the paſſage of our beloved and truſtie Thomas de* **Dagworth** *and his men that are bound for Bretaign, ſo that you bee readie there in your own perſon, together with the Ships, Flie-Boats, Barks, and Barges aforeſaid, ſo well provided and fitted for the warr, upon the Saturday next before the Feaſt of the Apoſtles* Simon *and* Jude, *next enſuing at the fartheſt, to go thence upon our Command, according to ſuch direction as ſhall then on our part bee given, to the Maſters and Mariners of the aforeſaid Ships, Flie-Boats, Barks, and Barges, and to take ſufficient Proviſion for the enabling of you to do the premiſes, in ſuch places as you ſhall ſee moſt convenient (except onely Church-Land) you making due paiment for the ſame; and alſo to ſeiz and arreſt all thoſe that you ſhall finde to oppoſe or reſiſt you in the execution of the premiſes, and them to commit into our Priſons, there to abide till wee ſhall think fit to take farther order, &c.* All Officers alſo in the ſaid Admiraltie are commanded to yield obedience and aſſiſtance upon the ſame occaſion. The uſual ſubſcription in that Age ſhewing the Original Autoritie of the Commiſsion was, **By the King himſelf and his Council**. But that the aforeſaid Sea it ſelf was conteined under the name of the Admiraltie, is clearly manifeſt by what wee have alreadie ſhewn you. And King *Edward* the

third uſed his antient Right, as other Kings of *England* did alſo therein, as well as in the Ports themſelvs, or Shores of *England* (for, there are innumerable examples of the ſtaying of all Ships whatſoëever, by the King's Command in Port or Shore.) But that which hath been alleged about the ſtaying of Ships, and Liſting them for the King's Service, you are alwaies to underſtand it was ſo don according to equitie, that competent Pay was to bee allowed them anſwerable to the proportion of Tuns, and alſo to the number of Sea-men, that were ſo taken into emploiment. Touching which particular, there are ſeveral Teſtimonies alſo to bee found in the [p] Records of Parlament.

[p] *Rot. Par.* 3 *Hen.*5.*par.* 1.*num.*6.*ſeu* 31.

That

That Licence hath been uſually granted *to Foreiners, by the Kings of England*, to fiſh *in the Sea*; *Alſo, that the* Protection *given* to Fiſher-men *by them, as in their own Territorie, is an antient and manifeſt Evidence of their Dominion by Sea.*

CHAP. XXI.

AS a freedom of paſſage, ſo alſo wee finde that a libertie of Fiſhing hath been obteined by Petition from the Kings of *England*. There is a clear Teſtimonie hereof in that which was alleged [a] before out of the Records of Parlament, concerning thoſe Tributes or Cuſtoms that were impoſed in the time of *Richard* the Second, upon all perſons whatſoëver that uſed Fiſhing in the Sea. Moreover, it appear's by Records, that *Henrie* the Sixt gave leav particularly to the *French* and very many other Foreiners, [b] *for one whole year onely* (ſomtimes for ſix Months) *&c. to go and fiſh throughout the Sea at all times and as often, &c.* But this leav was granted under the name even of a Paſſport or ſafe conduct; yea, and a ſize or proportion was preſcribed to their Fiſhing-boats or *Buſſes*, that they ſhould not bee above XXX Tuns. And it is true indeed, there was a kinde of conſideration or condition added, that ſom others, who were ſubjects of the King of *England*, might in Fiſhing enjoy the ſame ſecuritie with Foreiners: Which was for this cauſ onely put into the Licence, that if the Foreiners did diſturb or moleſt

[a] *Cap. XV.*

[b] *Rot. Franciæ 38. Hen. 6. Membran. 9. & 14.*

leſt them, they ſhould loſe the benefit of their Licence. The words of that conſideration or condition, in the beginning of thoſe Licences, run after this manner; *To the end that the buſineſs of the Herring-fiſhing and of other Fiſh, may bee advanced, continued, and mainteined for the publick good; yea and that the like ſecuritie may bee yielded and afforded to ſom certain Fiſher-men under our obedience.* I ſuppoſe that thoſe certain Fiſher-men under our Obedience were alſo the *French*, who at that time continued in ſubjection to the *Engliſh*; whereas almoſt all in *France*, except the Shore of *Picardie*, had newly revolted from the King of *England*: That is to ſay, at the latter end of the reign of *Henrie* the Sixt. But that which wee finde either here touching equal ſecuritie, or in other places ſomtimes alſo, about the giving of ſafe conduct even to the Fiſhermen of *England*, by Licence granted, either to *French*, or *Flemings*, or *Bretaigns*; that uſually hapned when the heat of War was over & a Ceſſation agreed on to treat of Peace or Amitie. In the mean time, ſecuritie of that kinde was given on both ſides now and then by agreement: But by the King of *England* as well in reſpect of his beeing Lord of the place, as his beeing a partie that was treating about a League or Amitie. By others upon this account onely, not upon that; unleſs you underſtand the queſtion to bee about the uſe of Ports and Shores: For ſo, no man denie's but theſe were Lords as well as hee. Moreover alſo, in our time, leav was wont to bee asked of our Admiral, for *French*-men to fiſh for *Soles* in the neighboring Sea, for King *Henrie* the Fourth of *France* his own Table; as it is affirm'd by ſuch as have been Judges of our Admiraltie and Commanders at Sea of an antient ſtanding; yea, and that the Ships of thoſe *French* were ſeized, as treſpaſſers upon the Sea, who

who presumed to fish there without this kinde of Licence.

But in the Eastern Sea, which washeth the Coasts of *Yorkshire* and the neighboring Counties, it hath been an antient Custom for the *Hollanders* and *Zelanders* to obtein leav to fish, by Petition to the Governor of *Scarborough* Castle, situate by the Sea-side in the Countie of *York*; and this for very many years past, as is affirm d by that learned man Mr *Camden* speaking of those Coasts; *It is worth the while,* saith hee, *to note what an extraordinarie plentiful and gainful Herring-Fishing the* Hollanders *and* Zelanders *use to have in the neighboring Sea, having first obteined leav from this Castle according to the antient Custom. For, the* English *have ever granted them leav to fish; reserving alwaies the honor and privilege to themselvs, but through a kinde of negligence resigning the profit to Strangers. For, it is almost incredible what a vast sum of monie the* Hollanders *make by this Fishing upon our Coast.* So he. There is another man also of very great skill and knowledg in Sea-affairs, who, in the time of Q. *Elisabeth*, presented a Book to the Parlament, written in the English Tongue, about the Commoditie of Fishing, wherein hee write's, that the *Hollanders* and *Zelanders* every year, toward the later end of Summer, send forth four or five hundred Vessels called **Busses**, to fish for Herrings in this Eastern Sea, [c] **Where before they fish they ask leave of Scarborough,** which are his very words. Care was taken also by Proclamation, in the time of [d] K. *James*, that no Foreiner should Fish in the *English* or *Irish* Sea, or that which belong's to the other Isles of the Realm of *England*, without leav first obteined, and every year at least renewed, from the Commissioners appointed for this purpose at *London*. And touching the libertie of fishing granted at other times also to Foreiners by

[c] Hitchcocks New years Gift. *Edit. Londinens.* 1580.

[d] *Proclamat. 7. of King* James, *May 6.*

by the Kings of *England*, there are many Teſtimonies in [e] other Writers. But the cauſ why wee do not often meet with the Forms of thoſe *Licences*, granted either for paſſage or fiſhing in the *Engliſh* Sea, was plainly this; becauſ by the Leagues that were made with the neighbor Princes, a Licence or freedom of that kinde (as alſo of Ports, Shores, Paſſage, and other things) was ſo often allowed by both Parties, that, as long as the League was in force, the Sea ſerved, as if it were a common Field, as well for the Foreiner that was in amitie, as for the King of *England* himſelf who was Lord and Owner. But yet in this kinde of Leagues, ſomtimes the Fiſhing was reſtrained to certain Limits, which is a thing chiefly to bee conſider'd. The limits related both to place and time: So that according to agreement, the Foreiner in amitie might not fiſh beyond theſe Limits; the K. of *England* reteining a Dominion over the whole adjoining Sea. Touching this, there is a notable Example in the time of our *Henrie* the Fourth. An agreement was made betwixt the Kings of [f] *England* and *France*, that the Subjects of both might freely uſe Fiſhing throughout that part of the Sea, which is bounded on this ſide by the Ports of *Scarborough* & *Southampton*, and on the other ſide by the Coaſt of *Flanders* and the mouth of the River *Seine*. The time alſo was limited betwixt *Autumn* & the *Kalends of Januarie* following. And that the *French* might ſecurely enjoy the benefit of this agreement, our King directed Letters to that end, ur to all his Sea-Captains and Commanders. Here you ſee plainly, thoſe Limits wholly excluded the *French* from that part of the Sea which lie's toward the Weſt and South-weſt, and alſo from that which lie's North eaſt of them, as beeing ſo limited by our *Henrie*, at his own pleaſure, as its Lord and Soveraign. Nor was there ſo much

as

[e] *Gerard. Malinius in Lege Mercatoriâ, cap. 35.*

[f] *Rot. Franciæ, 5. Hen. 4. 29. Septemb.*

as the least shadow of right or Prerogative, whereby the *French* King might seem to have any interest as a Lord or Owner in the setting of these Limits; seeing that part of the Sea which was secluded did not touch upon any Shore of his in the North, nor had hee any Countrie lying before the Sea in the South (except *Normandie*) or in the West; the rest beeing held either by the Duke of *Bretaign* or by the King of *England*, as wee have alreadie observed. From hence truly it was a Custom, for the Kings of *England* to give protection to Fisher-men that were Strangers, somtimes by Proclamation, and somtimes with a Fleet of men of War, when they went to Fish either by agreement made upon treatie, or by leav obteined, qualifications beeing added according to the *English* King's pleasure. There is among the Records of the time of *Edward* the First, an Inscription, *Pro hominibus* Hollandiæ *&c. For the men of* Holland *and* Zeland, *and* Friesland, *to have leav to fish near* **Jernemuth**. The King's Letter for their [g] protection follow's thus. *The* KING *to his Beloved and Trustie* John de **Buteturte** *Warden of his Port* de **Jernemuth** *Greeting. Forasmuch as Wee have been certified, that many men out of the parts of* Holland, Zeland *and* Friesland *also, who are in amitie with us, intend now to com and fish in Our Sea near* **Jernemuth**; *Wee command you, that you cause publick Proclamation to bee made once or twice everie week, that no persons whatsoëver imploied abroad in our service presume to cause any injurie, trouble, dammage, hindrance or grievance to bee don unto them, but rather, when they stand in need, that yee give them advice and assistance in such manner, that they may fish and persue their own advantage without any let or impediment. In Testimonie whereof, Wee have caused these our Letters to bee made Patents, to continue in force till after the Feast of S^t* Martin *next ensuing. Witness the King at* **Wengham**;

[g] *Rot. Patent. 23. Ed. 1. Membr. 5.*

the XXVIII *day of September.* Which was in the XXIII year of his Reign, and of our Lord MCCXCV. The ſame day alſo, in favor of the Earl of *Holland* and his Subjects, hee ſet forth three men of War toward the farther Coaſt of the Sea, **for the ſafeguard** (as hee ſaith in another Letter) **of thoſe Veſſels belonging to your and our own Countrie, that are in theſe daies emploied about the Herring-Fiſhing &c. and to guard your Coaſts near the Sea.** Here hee grant's a Protection to fiſh. And in both the Letters, hee limits it within the ſpace of two Months. Hee alone alſo protected the Fiſher-men upon the *German* Coaſts (which, by reaſon of its nearneſs, hee call's here *your Coaſt near the Sea*, in his Letter to the Earl of *Holland*) as well as upon the *Engliſh.* Nor might the Fiſher-men uſe any other kinde of Veſſels, but that which was preſcribed by our Kings. Upon which account, all kindes of Fiſhing were ſomtimes prohibited, and ſomtimes admitted, this reſtriction onely beeing added, that they ſhould fiſh in ſuch Veſſels onely as were under thirtie Tuns burthen. This appear's by thoſe Letters of King *Edward* the Third concerning the Laws of Fiſhing, which were directed unto his ſeveral Governors of *Yarmouth*, *Scarborough*, *Whitby*, and *Donwich*, Towns ſeated upon the Eaſtern Shore. The words are theſe; [h] **Foraſmuch as wee have given Licence to the Fiſher-men of the aforeſaid Town, and to others who ſhall bee willing to com unto the ſaid Town for the benefit of Fiſhing, that they may fiſh and make their own advantage with Ships and Boats under thirtie Tuns burthen, any prohibition, or Commands of ours whatſoever to the contrarie notwithſtanding, wee command you to permit the Fiſher-men of the aforeſaid Town, and**

[k] *Rot. Clauſ.* 11. *Ed.* 3. *Membran.* 35.

and others who shall bee willing to com to the said Town for the benefit of Fishing, to fish and make their own advantage with Ships and Boats under thirtie Tuns, without any let or impediment, any Prohibitions or Commands of ours made to the contrarie in any wise notwithstanding, as wee have said. witness the King at the Tower of London, August. X. Which was in the 11th year of the Reign of *Edward* the Third, or of our Lord MCCCXXXIX. But if any heretofore undertook the protection of the Fisher-men in this Sea, without leav of the *English*, they were to bee seized and imprison'd, as Invaders of the Right of Dominion, and to expect to bee dealt with accordingly, for the injurie don to the King of *England*.

This is evident also in the Records of our K. *Edward* the Fourth. For, hee erected a Triumvirate or invested three Persons with Naval Power, whom the Records call *Custodes, Conductores, & Waftores*, Guardians, Conductors, and Waftors, whose Office it was to protect and guard the Fisher-men upon the Coasts of *Norfolk* and *Suffolk*. To the end therefore that the expences of the Guard might be defrayed by the Fisher-men, and all others whatsoever bee excluded from medling with this kinde of Guard or protection, hee appointed four men, by name Sir *John* Hemingham Knight, *William* Hopton, *Edmund* Ive, and *John* Wansfleet Esquires, *as well* (say the[i] Records themselvs) *to over-see those* Guardians, Conductors, *and* Waftors, *as to give notice to all Fishermen of what Countrie soever they bee, who shall desire to fish in the Parts aforesaid under the protection of the said N.N. that those Fisher-men and everie of them, do contribute to all and all manner of Costs, Charges, and Expenses belonging to the same Guardians and Conductors in the time of fishing, and charge all*

[i] *Rot. Pat. 22. Ed. 4. Membran. 2.*

ſuch Coſts, Charges, and Expences according to a proportion, and to levie and collect thoſe Coſts, Charges, and Expences, out of this kinde of Fiſhings belonging to the Fiſher-men aforeſaid, whereſoëver they may bee found; As alſo to arreſt and apprehend all others, except the afore named, who preſume or attempt to becom Guardians, Conductors, or Waſtors, and to commit them to our next Gaol, there to bee kept ſafely and ſecurely, till wee ſhall take order for their deliverie. In the very ſame words almoſt, to the ſame purpoſe, wee finde divers Letters Patents of King *Henrie* the [k] Seventh; yea, and of *Richard* the [l] Third, ſave that in the form hereof, after thoſe words [*charge all ſuch Expences according to a proportion*] this conſiderable Clauſ here is inſerted [*Although the ſame Fiſhermen, whether any one or more of them, may have had Letters of ſafe Conduct from any other King, Prince, or Governor of any Kingdom whatſoëver.*] So that by the received and uſual Cuſtom, the Charges of the Guard were to bee defraied by the Fiſher-men of this Sea, at the pleaſure of our Kings, though they might have had Letters of publick ſecurity and protection from any other Princes. Nor were any other perſons to bee admitted to a partnerſhip in this kinde of Guard, except thoſe that were appointed by the King of *England*, leſt by this means perhaps it might derogate from the *Engliſh* Right. Which is a manifeſt ſign or evidence of the Dominion and Poſſeſsion of the place.

[k] *Rot. Pat. 3. Hen. 7. part. 2. in dorſo* 15. *Auguſt. & part. 1. in dorſo.* 18. *Septembris.*

[l] *Rot. Pat. 2. Rich. 3. part. 1. Membran. 2.*

The

The Dominion of England made evident from the laws *and* limits uſually ſet *by our Kings in the Sea, to ſuch* Foreiners as were at enmitie with each other, *but in amitie with the* Engliſh. *And concerning the King's* Cloſets *or* Chambers *in the Sea. Alſo touching that ſingular privilege of* perpetual truce (*or exemption from hoſtilitie*) in the Sea *about thoſe Iſles which lie before the ſhore of Normandie.*

CHAP. XXII.

AS to what concern's the Laws and Limits that have been preſcribed to Foreiners (from whence I derive a fift ſort of Teſtimonies) who beeing at enmitie with each other, and both of them in amitie with the *Engliſh*, did mutually make prize and prey upon each other throughout this Sea; Whereas about the beginning of the Reign of *James* K. of *England*, the reſt of the Chriſtian world was every where at peace, but the warr waxed hot betwixt the *Spaniard* and the States of the *United Provinces*, and thereby it happened, that both thoſe parties beeing in amitie with the *Engliſh*, did infeſt one another with mutual and very frequent depredations in the *Engliſh* Sea, touching the lawfulneſs whereof divers Queſtions aroſe among the King's Officers, in the Court of Admiraltie; Our K. following the examples of his Predeceſſors, did as lawful Soveraign and Moderator of the Seas, ſet forth a [a] *Proclamation*, appointing certain limits upon the Engliſh Coaſts, within which hee ordeined there ſhould bee ſafe riding for

[a] *Proclam.* 1. *March* 2. *of K.* James, *or* 1604. *in Rot. Pat.* 2. *Jacobi R. part.* 32.

both parties, with safe passage, yea, and declared hee would give equal protection to both in such manner, that within these limits neither might the *Spaniards* use any hostilitie against the *United Netherlanders*, nor these against them, nor the Subjects of any Nation whatsoever against those of another, without incurring his displeasure. The words of the Proclamation are these; **Our pleasure is, that within our Ports, Havens, Roads, Creeks, or other places of our Dominion, or so near to any of our said Ports and Havens, as may bee reasonably construed to bee within that title, limit or precinct, there shall bee no force, violence, or offence suffer'd to bee don, either from man of War to man of War, or man of War to Merchant, or Merchant to Merchant of either partie. But that all of What Nation soever, so long as they shall bee within those our Ports and places of our Jurisdiction, or where our Officers may prohibit violence, shall bee understood to bee under our protection, to bee ordered by course of Justice, and bee at peace each with other.** But by the same Proclamation hee declared, that violence should so onely bee permitted betwixt Enemies in that limited part of the Sea, that if any man of war should either bee hovering near hand with an intent to offer violence to his enemie, in the open Sea adjoining, or the Creeks, Ports, and Havens of the same, or should out of any place so prohibited, contrarie to the intent of the Proclamation, fall upon his Enemies ship, setting forth to Sea from the same place, then the English men of war, as well those belonging to Merchants as Commanders in the King's service, should remove and punish such kinde of violence. The words of the Proclamation are these; **Our plea-**

pleasure therefore and commandement is to all our Officers and Subjects by sea and land, that they shall prohibit (as much as in them lieth) all such hovering of men of War of either side so near the entrie of any of our Havens, or our Coasts; And that they shall rescue and succor all Merchants and others that shall fall within the danger of any such as shall await our Coasts in so near places, to the hinderance of Trade and Traffick outward and homeward, from and to our Kingdoms. The *Prescribed limits* afore-mentioned were set forth in a Table or Map cut in Brass, and published by the King's Command. The manner of it was such, that both the limited part of the Sea, and those Ports and Creeks were pointed out by direct lines draw from one point of land or adjacent Island, to the next Point or Island upon the *English* shore. These points with the Isles fetching a compass round about from the North-Coast of *England*, by the East and South as far as the West, beeing in number *twentie seven*, are ranked thus in their order. **Holy Island, the Sowter, whitby, Flamborough head, the Spurn Cromer, winterton-nesse, Easter-nesse, Layestof Estnesse, Orfortnesse, the Northforeland, the Southforeland, Dungenesse, Beach, Dunenore, Portland, the Start, the Ramme, the Dudman, the Lizard, Lands end, Wildford, S. Davids Head, Beardsie, Holy head,** and **the Isle of Man**. Wee have very great Creeks of Sea cut off by these lines from the Sea round about, which they call *Regias Cameras* **The Kings Chambers,** and the Ports Roial. Even as in an house the inner private Rooms, or Chambers, or Closets, which in barbarous Latin are wont to bee termed *Cameræ*, are reserved for the Master; and as the Citie of *London* hath of old been called in our Law the *Chamber of the King of England*, whereby the rest of his Dominion

minion round about is set forth, as it were by the use of a more narrow Title: So these Creeks, though very large,

being

beeing called by the like name and limited at the pleaſure of the Kings of *England*, do in like manner ſhew his Dominion over the reſt of the Sea. But wee have taken a Deſcription of the Points and Iſlands, whereby thoſe Creeks ſet forth in the Table here annexed, are wont to bee limited, out of that [b] inſtrument which was written in *Engliſh* by twelve men very well skilled in Maritim affairs, and ſworn for this purpoſe at the time when the Proclamation was publiſhed, and it was by them preſented to Sir *Julius Cæſar* Knight, at that time Judg of the High Court of Admiraltie, but now Maſter of the Rolls, and one of his Majeſtie's Privie-Council, to whom the care of ſearching after this kinde of antient limits was committed. But in that Inſtrument, as well the diſtance of all the Points in reſpect of each other, as the manner of ſailing in a direct courſ is explained, from whence the latitude of every one of the *King's Chambers*, may in part bee collected. Thoſe twelv men beginning at the **Holy Iland**, fetch't a compaſs round from the North by the Eaſt and South to the Weſt, in the order hereafter following. The firſt courſ and diſtance is from that Iſland to **The Sowter.** And from thence the reſt are reckoned in the like manner.

[b] *Martii*, 1604. *ſeu* 2. *Jacobi* R.

Promontoriorum ſeries.	*Rumbi*	*Leucæ.*
Ad **the Sowter**	in Phœnicem, S. S. E.	17 $\frac{1}{3}$
Ad. **Whitby**	in Notapeliotem S. E.	12
Ad **Flamborough head**	in Notapeliotem S. E. $\frac{1}{2}$ verſus Auſtrum.	8

Promontoriorum series.	*Rumbi.*	*Leucæ.*
Ad the Spoune	in Phœnicem S.S.E. versus Apeliotem.	$13\frac{1}{3}$
Ad Cromar	in Meseurum S. E. and by E.	$24\frac{1}{3}$
Ad Winterton-nes	in Hypophœnicem S.E. and by S.	4.
Ad Caster-nes	in Phœnicem S.S.E.	$2\frac{1}{13}$
Ad Layestof	in Austrum S.	$3\frac{3}{4}$
Ad East-nes	in Austrum S. $\frac{1}{2}$ versus Occidentem.	$1\frac{5}{6}$
Ad Oxforth-nes	in Mesolybonotum S. and by W.	$6\frac{1}{6}$
Ad North-foreland.	in Austrum S. $\frac{1}{3}$ versus Occidentem.	$15\frac{1}{6}$
Ad South-foreland.	in Austrum S.	$6\frac{1}{3}$
Ad Dunge-nes	in Notolybicum S.W. $\frac{1}{4}$ versus Austrum.	7
Ad Beach	in Africum W.S.W. $\frac{1}{4}$ versus Austrum.	13
Ad Dune-noze	in Africum W.S.W. $\frac{3}{4}$ versus Occidentem.	$24\frac{5}{6}$
Ad Portland	in Hypafricum W. and by S. vers. Austrum.	$16\frac{1}{12}$
Ad the Start	in Africum W. S. W. $\frac{1}{5}$ in Occidentem.	$18\frac{2}{3}$

Promon-

Promontoriorum Series.	*Rumbi.*	*Leucæ.*
Ad the Ramme.	in Occidentem W. $\frac{1}{4}$ versus Boream.	6 $\frac{1}{2}$
Ad the Dudman.	in Africum W.S.W. $\frac{1}{6}$ versus Occidentem.	8 $\frac{1}{2}$
Ad the Lizard.	in Africum W.S.W. $\frac{1}{3}$ versus Austrum.	9
Ad the Landsend	in Caurum W. N.W. versus Boream.	7
Ad Milford	in Boream N. $\frac{2}{3}$ versus Orientem.	31 $\frac{2}{3}$
Ad S. Davids head.	in Boream N. $\frac{1}{2}$ versus Occidentem.	5 $\frac{1}{2}$
Ad Beardlie.	in Hypaquilonem N. and by E. $\frac{1}{8}$ vers. Orientem.	12 $\frac{1}{6}$
Ad Holy head.	in Boream N. $\frac{1}{6}$ versus Occidentem.	9
Ad Monam	in Hypaquilonem N. and by E. $\frac{1}{5}$ versus Boream.	26

Here you see very large spaces of Sea, intercepted sometimes for above ninetie Miles (for, three *English* miles here go to everie League) whereby those Chambers or Sea-Closets are made. But wee finde the management of that business concerning these *Chambers*, at the time of the aforesaid Proclamation; set forth after this manner, in the subscription of the *twelv men* that were sworn, and added to the aforesaid distances and courses of sailing. *Wee whose names are subscribed, beeing called before the Right Honorable Sir* Julius Cæsar *Knight, Judg of his Majestie's High Court of Admiraltie,*

miraltie, and there beeing inrolled, admitted, and ſworn, for the deſcribing of the limits and bounds of **the King's Chambers, Havens, or Ports**, *in their full extent, do by theſe preſents make anſwer, and to the beſt of our knowledg and underſtanding, declare, that the ſaid Chambers, Havens or Ports of his Majeſtie, are the whole Sea-Coaſts which are intercepted or cut off by a ſtreight line drawn from one point to another, about the Realm of* England. *For the better underſtanding whereof, wee have made a Table concerning that buſineſs; whereto wee have annexed this our Schedule, ſhewing therein how one Point ſtand's in a direct line towards another*, according to that Table. *Given the fourth day of* March, *Anno Dom.* 1604. *and in the ſecond year of the Reign of our Soveraign Lord King James, &c.* And then in the Schedule there follow the names of the *twelv men*; who were all perſons of very great knowledg in naval or Maritim Affairs. So, the ſpaces within the ſtreight lines drawn from one point to another, are the Chambers or Ports of the King of *England*, who beeing Lord in like manner of all thoſe parts of the Sea, as farre as the oppoſite Shores or Ports, whilſt hee commanded a keeping of the peace within theſe Creeks or Cloſets, did, as *Arbiter*, permit thoſe that were in amitie with him; but enemies among themſelvs, to make prize of one another, in the reſt of the Sea; yet not without ſom qualifications or reſtrictions added concerning the uſe of the more open part of the Sea. And truly, the *Spaniards* alleged afterward, that themſelvs ought to bee protected from hoſtilitie alſo, without theſe limits, in the more open part of the Sea; and that by virtue of the agreement of peace, whereby the Kings of *Spain* and *England* were obliged to protect one another's ſubjects, in all parts of their Kingdoms: which is as much as to ſay, that the reſt of the

the Sea flowing between com's no leſs under the name of the Kingdom of *England*. And this appear's alſo from the diſpute held by their Advocate in *England, about the protection of the Territorie by Sea*, againſt the Hollanders, who *mightily exclaimed* (as [c] hee ſaith) *that they ſhould bee intercepted and ſtaid by the King's Officer at Sea, with the prize that they had taken from their enemies the Spaniards. That it was an unjuſt violence; that beeing diſturbed and ſpoiled, they ought to have reparation made them, and to bee heard againſt thoſe Spaniards, who beeing priſoners were diſcharged with the goods that were taken.* But that the King of *England* might juſtly give the *Spaniards* protection againſt the *Hollanders*, in the *Britiſh* Sea, either within or without thoſe limits, hee plead's after this manner. *You ſee* (ſaith hee) *how far the Dominion of the King of* England *ſtretche's toward the South, North, and Weſt. The* [d] *Northern Coaſts of* Britain, *having no Countries lying againſt them, are waſhed by the main and open Sea. And the Southern Coaſts of* Ireland *are bounded upon* Spain; *the Weſtern upon the* Indian *Countries under the Dominion of* Spain; *And ſo the Juriſdiction of our King by Sea, is of a mightie vaſt extent. Nor was it reſtrained or leſſen'd by that ſubſequent Proclamation of the King* (the ſame above mentioned) *whereby certain limits were appointed, beyond which the* King *declared the power of his Territorie ſhould not bee extended, in theſe Acts of hoſtilitie betwixt the* Spaniards *and* Hollanders. *But it's ſaid, that the* Hollanders *were intercepted by the Officer without theſe limits. Alſo according to the Articles of Peace lately agreed on betwixt our King and the King of* Spain, *they ought to protect one another's Subjects in all places throughout their Dominions: And therefore both ought to give protection throughout that immenſ Juriſdiction. For, there are limits* [e] *founded upon right, and there are limits by compact or agreement: And an argument taken from the one, doth not conclude againſt the other.*

[c] *Albericus Gentilis in Advocat. Hiſpanica, lib. 1. cap 8.*

[d] Tacit. in vitâ Agricolæ. Cæſ. de Bello Gallico, l. 5.

[e] *Menoch. Conſil. 14.*

And here wee are to follow the limits of right, concerning which certainly the articles of Peace and Agreement ought to bee understood; Becauſ the other Bounds beeing ſet afterward, were not then in imagination. But the autoritie of the Proclamation extend's not to things paſt. Certain it is, that Laws and Conſtitutions do give a Beeing to [f] *future buſineſſes, and are not to bee recalled unto things don and paſt. Nor is this a Declaration of the King's right (therefore the more eaſily to bee* [g] *admitted) made in the Proclamation, but a diſpoſition and law wholly new. For, a* [h] *Declaration induceth nothing new, and changeth nothing. But this Proclamation would change much, ſeeing the power of the King's Territorie extend's it ſelf much beyond thoſe limits now conſtituted. To this an* [i] *Anſwer may bee given alſo, which is acknowledged by all, that a Declaration is of no force to another's prejudice, which here might bee don to the ſhip that was intercepted; for which right was ſought according to common Cuſtom, and alſo according to the ſpecial agreement of the peace, that thoſe Princes ſhould ſuffer no violence to bee don to one another's Subjects in their Territories. And it is much more ſtrong in reſpect of that expreſs article of the Treatie, for that it could not bee meet to take off from the full force of the Contract; which would now bee leſſen'd notwithſtanding, if it were granted that the Territorie is ſo leſſen'd, within which onely our King might protect the* Spaniards. *Moreover, it hinder's not which is objected, that theſe limits which are now expreſſed in the Proclamation, were obſerved long before by long Cuſtom in Controverſies of this nature. For, to omit thoſe moſt difficult things which are deliver'd in* [k] *proving the Cuſtom, certainly the intent of our King in the Contract of peace ſeem's not to have had reſpect unto that Cuſtom, if any there hath been, or alſo unto the Statute, which is alleged here to bee antient. For, neither are thoſe things common and underſtood by the other Prince in amitie, nor perhaps by our King himſelf; to wit, matters of fact, in his new Kingdom.* All which things I thought fit

[f] *L. 7. C. de Leg. Non. Conſ.* 110. 111.
[g] *Cravetta, Conſ.* 641.
[h] *Decian.* 1. *Conſil.* 8. *Oldrad.* 318. *Imol. Conſ.* 67. *fin.*
[i] *Decian.* 1. *Conſ.* 7.
[k] *Riv.* 1. *Conſil.* 74. *num.* 10.

fit to add here out of *Albericus Gentilis*, becauſ they belong not onely unto theſe Limits, Creeks, or Roial Chambers in the Sea, but to the Dominion of the whole *Britiſh* Sea. And truly *Gentilis* was ill underſtood by *Joannes* [l] *Gryphiander*, who diſcourſing at large concerning Sea-Affairs, allegeth the place before-cited out of him in ſo brief a manner, as if by that Proclamation of King *James*, his Juriſdiction had been reſtrained ſimply to thoſe limits. *The Juriſdiction of* England (ſaith *Gryphiander*) *by Sea, although it bee extended to the South, North, and Weſt, yet by a Proclamation of* James *the preſent King, it is circumſcribed by certain limits in the Sea.* Hee quote's *Albericus Gentilis*, for his Autor. But truly, the King had no intent in that Proclamation, that his Juriſdiction ſhould bee circumſcribed ſimply by thoſe Limits, but onely in relation to the acts of hoſtilitie at that time betwixt the *Spaniards* and *Hollanders*; hee beeing Lord and Moderator of the *Britiſh* Sea for ever, as well as his Predeceſſors: which is ſufficiently manifeſt out of the Proclamation it ſelf, & out of *Gentilis*. Nor indeed is it eaſily to bee conceived, from whence that ſpecial and perpetual privilege of Truce or Freedom from hoſtilitie had its original, which the inhabitants of *Jerſey*, *Garnſey*, and the other iſles lying before the ſhore of *Normandie*, do enjoy even in this very Sea, though war bee between the Neighbor-Nations round about, unleſs it bee derived from this Sea-Dominion of the Kings of *England*. Concerning that privilege, Maſter *Camden* beeing well inform'd by antient Teſtimonies, ſpeak's after this manner in brief. [m] *By an antient privilege of the Kings of* England, *here is as it were a perpetual Truce, and though a War bee on foot, yet the French and others have a libertie to com hither to and again without danger, and uſe Commerce ſecurely.* But wee finde the ſame more at large

[l] *Tract. de Inſulis, cap.* 14. § 46.

[m] *In Inſulis Brit. p.* 855.

large, in ſom [n] Kings Patents, expreſſed thus concerning *Jerſey*; *that in time of war, Merchants of all Nations, and others as well Strangers as Natives, Enemies as well as Friends, may freely, lawfully, and without peril, go unto, paſs to and fro, and frequent the ſaid Iſle and the places upon the Coaſts thereof, with their Shipping, Merchandiſe, and Goods, as well for ſhelter from foul weather, as upon any other their lawful occaſions, and there to uſe free Commerce and Traffick, and to abide with ſafetie and ſecuritie, and to com away thence, and return at pleaſure, without any damage, trouble, or hoſtilitie whatſoëver, in their Affairs, Merchandiſe, Goods or Bodies; and that not onely near the Iſland and places aforeſaid upon the Coaſts, and their Precinct, but alſo within the ſpaces diſtant from them as far as a man may ken, that is, ſo far as the ſight of the eie can attain.* And this is called a privilege, which you ſee extend's ſo far into the Sea it ſelf, as the ſight of the eie can pierce from the ſhore. And if ſo bee this privilege did not proceed from the Kings of *England*, as they are Lords both of the Sea and the Iſles, (and by the ſame right that the Iſles themſelvs belong to them, as hath been ſaid [o] before) it cannot in reaſon bee imagined from whence it had its original. There is not (ſo far as wee know) ſo much as a pretence of a Grant made by any other Princes. But onely by the Kings of *England*, who unleſs themſelvs were Lords of the whole Sea flowing about, by what Title and Autoritie did they ordein ſuch a Truce ſo far within the Sea on every ſide, between enemies of all Nations whatſoëver that came unto thoſe Iſlands? But as our Kings have very often commanded that all manner of perſons ſhould ceaſ from hoſtilitie, not onely within the aforeſaid Creeks, but alſo throughout the ſpaces extended thence at pleaſure, into their Territorie by Sea; ſo in like manner they indulged the like kinde of privilege for ever through-

[n] *Rot. Pat. 2. Ed. 6. part. 7. Rot. Pat. 2. Elizab. part. 6. & Rot. Pat. 2. Jacobi Regis, part. 19.*

[o] *Cap. XIX.*

throughout theſe Coaſts of the French ſhore, that all manner of perſons, though enemies to one another, might ſecurely ſail to and fro, as it were under the wings of an Arbiter or Moderator of the Sea, and alſo freely uſe the Sea according to ſuch ſpaces or limits as they were pleaſed at firſt to appoint. Which, without doubt, is a clear evidence of Dominion.

Certain publick Records, *wherein of old the Dominion of the Sea is,* by the way, *aſſcribed to the Kings of England, both by the* King himſelf, *and alſo by the* Eſtates of Parlament, *debating of other matters, and that in* expreſs words, *and* with verie great deliberation, *as a known and moſt undoubted Right.*

CHAP. XXIII.

I Shall next of all cite ſeveral publick Records, which are kept in the Tower of *London,* wherein the Dominion and poſſeſsion of the Sea is by the way expreſsly aſſerted as belonging to the King of *England*, and that both by the King himſelf, as alſo by the Eſtates of the Parlament of *England*, as they were debating about other matters. For, that is the ſixt head of the former Diviſion. King *Edward* the third intitle's himſelf and his Predeceſſors Lords of the whole Sea flowing round-

about, in the ſeveral Commiſsions given to *Geoffry de* Say Governor or Commander of the Southern and Weſtern Sea, and *John de Norwich* of the Northern (the limit of diſtinction beginning, as it was uſual, at the Mouth of the *Thames*) out of which Records wee here ſet down theform, which is eſpecially to bee conſider'd, ſo far as it make's to this purpoſe. [a] *The KING to his Beloved and Truſtie* Geoffry de Say, *Admiral of his Fleet of Ships, from the Mouth of the River Thames toward the Weſtern parts, greeting. Whereas Wee have of late commanded you by Our Letters, that you together with certain Ships out of the Cinque-ports, which wee have order'd to bee furniſhed and made readie for war according to our Command, ſhould ſet forth to Sea, to oppoſe and reſiſt certain Gallies, provided and inforced with men of war in divers forein Parts, which, as Wee were inform'd, were ſet out towards the parts of our Dominion to aggriev Us and Our people, or elſ to turn their courſ toward the Coaſts of* Scotland, *for the relief and ſuccor of our Enemies there; And in regard it hath been related by ſom, that Gallies of that kinde to the number of* XXVI *are newly com to the Coaſts of* Bretaign *and* Normandie, *and do ſtill abide there, as it is ſuppoſed, to do what miſchief they can againſt Us and Ours, or to ſuccor Our ſaid Enemies, as is aforeſaid; Wee calling to minde that OUR PROGENITORS THE KINGS OF ENGLAND have before theſe times been LORDS OF THE ENGLISH SEA ON EVERIE SIDE, yea, and defenders thereof againſt the Invaſions of Enemies; and ſeeing it would very much grieve Us, if our Kingly honor in this kinde of defenſ ſhould (which God forbid) bee loſt in our time, or in any ſort diminiſhed; and deſiring, with God's help, to prevent dangers of this nature and provide for the ſafeguard and defenſ of the Realm and our Subjects, and to reſtrain the malice of our Eenemies; Wee do therefore ſtrictly require and charge you, by the duty and Alle-*

[a] *Rot. Scotiæ*, 10. Ed. *Memb.* 16.

Allegeance wherein you ſtand bound, according to the ſpecial truſt repoſed in you, that immediately upon ſight of theſe preſents and without any farther delay, you do ſet forth to Sea with the Ships of the Ports aforeſaid and the other Ships which are now readie; and that you arreſt the other Ships in obedience to our command, which Wee lately requir'd you to arreſt (But ſo that they might bee readie and provided to ſet forth according to Our aforeſaid Command, ſeeing Wee cauſed the Maſters and Marriners of the ſame Ships to bee prepared, and gather'd together, whetler they were within your Liberties or without, and to cauſ them, beeing well provided of men of War and other neceſſaries, to haſten out to Sea with the aforeſaid Ships) and that with all diligence you make ſearch after the aforeſaid Gallies and other Ships of War abroad againſt us, and ſtoutly and manfully ſet upon them, if they ſhall preſume to bend their courſ for the end aforeſaid, toward the parts of Our Dominion, or the Coaſts of Scotland. *And if they ſteal away from you, ſo that you cannot meet with them, then you are with the aforeſaid Ships of our Fleet without any delay to follow after the ſame Gallies and Ships of War ſet out againſt Us, if they ſhall make towards our Kingdom or the Coaſts of* Scotland *aforeſaid, and courageouſly to deſtroy them, for the conſervation of our Royal honor. But yet Wee will not that you occaſion any hurt or hindrance to Merchants or others paſſing by Sea, who have no intention to offend Us and our Subjects, or to ſuccour our Enemies.* Then follow's a power to preſs Seamen, and ſom other matters of that kinde. The day alſo and Autoritie is ſubſcribed after this manner. *Witneſs the King at the Town of S^t* John, *the ſixteenth day of* Auguſt. *By the King himſelf and his Council.* The like Commiſsion was at the ſame time, and by the ſame time and by the ſame Autoritie given to *John de Norwich* Admiral of the Northen part.

In the preferring of a certain Bill alſo in Parlament

(which was the voice of the Estates of the Realm) in the reign of the same *Edward*, wee finde that hee was usually accounted and styled King or Soveraign of the Sea by all Nations. The words are, [b] *qe* XX *ans passez & toutdiz adevant, la Navie de dit roialme estoit en touz portz & bones villes sur mier & sur riviers si noble & si plentinouse, qe touz les pais tenoient & appelloyent nostre avantdit Seignieur,* LE ROY DE LA MIER, *& tout son pays dotoyent le pluis per mier & per terre per cause de la dite Navie &c.* Which beeing translated out of the old *Norman* speak's to this effect; *That the* English *were ever in the Ages past renowned for Sea-affairs in all Countries near the Sea, and they had also so numerous a Navie, that the people of all Countries esteemed and called our King, the King or Soveraign of the Sea.* There is likewise a notable Testimonie touching this business in the Parlament-Records of *Henrie* the Fifth, where the tenor of the Bill ran (as was usual) after this manner; *Item priont les* [c] *Commens que, per lou nostre tressoverain seigneur* LE ROY ET SES NOBLES PROGENITORS DE TOUT TEMPS ONT ESTE SEIGNEURS DEL MEER, *& ore par la grace de Dieu est venuz que nostre dit seigneur le Roy est seigneur des costes d' ambeparties del meer, d' ordeigner sur touts estrangers passants per my le dit meer, tiel imposition al œps nostre dit seigneur le Roy à prendre que à luy semblera resonable pur la sauvegarde del dite meer.* That is to say, *Item, the Commons do pray, that (seeing our Soveraign Lord the King and his illustrious Progenitors, have ever been Lords of the Sea, and now that through Gods grace it is so com to pass, that our said Lord the King is Lord of the Shores on both sides of the Sea) such a tribute may bee imposed upon all Strangers passing through the said Sea, for the benefit and advantage of our said Lord*

[b] *Rot. Parl. 46 Ed. 3. num. 20.*

[c] *Rot. Parl. 8 H. 5. memb. 3. art. 6.*

Lord the King, as may ſeem agreeable to reaſon for the ſafeguard of the ſaid Sea. The Anſwer ſubſcribed to this Bill was, *Soit aviſe par le Roy*, that is, *let the King himſelf bee adviſed of it.* For, the King reſided in *France* at that time, beeing Lord of that Countrie by Inheritance and Conqueſt, and *Humphrey* Duke of *Glocester* was Preſident of the Parlament, beeing then Keeper or Lieutenant of *England*, by whom, as the King's Deputie, this kinde of Anſwer was uſually given to Bills, as often as an aſſent to them was delaied; but when the King was preſent in perſon, *le Roy s' adviſera, the K. will adviſe*, ſerved in ſtead of an Anſwer from antient down to the preſent time, in ſuch Bills as were not paſſed into Acts. That is to ſay, in thoſe Bills to which the Lords and Commons had given their aſſent before, that is, the Eſtates of the Parlament of *England*, which is here eſpecially to bee conſidered. For, moſt certain it is, that, according to Cuſtom, no Anſwer is given either by the King or in the King's name, to any Parlamentarie Bills, before that the Bill, whether it bee brought in firſt by the Lords or by the Commons, hath paſſed both Houſes, as it is known to all that are verſt in the Affairs and Records of Parlament. And when the name of either of them is left out in the draught of the Bill, (as the Lords are in that before alleged) it was wont to bee ſupplied, as it is alſo at this day, by the brief form of Aſſent, which is added by that Houſ, to whom the Bill is ſent and tranſmitted. For, that Houſ which firſt prefer's it, tranſmit's it to the other, who either give's an aſſent, or reject's it. And when both Houſes have ſo given their aſſent, then after a while, either the King give's his aſſent (whereby it becom's an Act or Law) or elſ hee laie's it aſide, and (as I have alreadie ſhewn) take's time to

adviſe; Neither of which is ever don by the King, according to the courſ of Parlament, till both Lords and Commons have firſt given their aſſent. But the whole form of the afore-mentioned Bill, which is full of all kinde of ſtorie concerning things tranſacted in Parlament, is taken out of the very Schedules annexed to the Bill, (wherein the Forms of this kinde of aſſent were wont expreſsly to bee added) and regiſter'd according to antient Cuſtom, among the Records of Parlament, in the very ſame words wherein it was at firſt exhibited; no expreſs mention beeing made of the aſſent both of Lords and Commons which is annexed to the Body of the Form (for, the aſſent of both ſufficiently appear's, in that according to the courſ of Parlament it was ſo preſented to the King) and the King's aſſent onely or intent of deliberation beeing added by way of ſubſcription, as I have ſhewn. But moſt of thoſe Schedules annexed to that kinde of Bills which relate to the more antient times are loſt; whereas notwithſtanding the Records wherein they were wont to bee regiſter'd, have been carefully preſerved in the *Tower* for above $\overline{CCC}$ years. All which wee thought meet to mention here, to the end that in the Bill before alleged out of the Parlamentarie Records of *Henrie* the fift, theſe three things may bee obſerved, which make very much to the point in hand. *Firſt*, that the Eſtates in Parlament, according to the Cuſtom of their Anceſtors, that is to ſay, both Houſes of Lords and Commons, beeing well-informed of the matter perhaps by ſom antient Teſtimonies whereof wee are bereft by the injurie of time, did with one conſent affirm it as a thing unqueſtionable, that the King of *England* is Lord of the Sea: As it appear's alſo in that former Record which relate's to the Reign of *Edward* the third;

for,

for, both the Bills are placed alike in the aforeſaid Records. *Secondly*, that the Sea whereof they ſpeak is the whole that flow's between *France* and *England*: For, they ſay in expreſs terms, that King *Henry*, beeing Lord of the Sea, was at that time Lord *des coſtes d' ambeparties del meer*, that is, *of the Coaſts* or *Shores on both ſides of the Sea*, or thoſe that include the Sea on both ſides, which cannot bee underſtood of any other or greater Sea, than of that which was mentioned there immediately before: And ſo it is in plain terms to bee taken of that whole Sea. *Thirdly*, that thoſe *Eſtates* did not queſtion but that Tributes might bee impoſed by autoritie of Parlament, upon all ſtrangers whatſoëver, whereſoëver they paſs through this Sea; as well as Cuſtoms in Port; And that they did not at all conceiv, that a Bill ought to bee preſented touching that buſineſs unto the King, as hee was at that time King of *France*, but onely as King of *England*, that is, as Lord of the whole Sea flowing between. And it is very improbable, and not in reaſon to bee admitted, that they would ſo upon deliberation (for both Lords and Commons uſe to debate ſuch matters a long time before they paſs a Bill) that they would, I ſay, ſo upon deliberation require an impoſing of Cuſtoms by the Act of an *Engliſh* Parlament, in a place that was not ſubject, as a part of the Roial patrimonie, to the King of *England*, as King of *England*. From hence it was alſo, that our preſent King *Charls* did this laſt year declare, *that himſelf and his progenitors the Kings of* England *have in all times hitherto, by an antient and moſt juſt title, been Lords of this Sea*; to wit, in his [d] Letters Patents ſent to the Maritim Counties of *England*, whereby ſhip-monie was impoſed for the defence of his Dominion by Sea. Add moreover hereunto, that in the agreement made betwixt our *Edward* the firſt and

[d] *Brev.* 10. *Caroli R. Octob.* 20. *ſeu* 1634.

Guie

Guie Earl of *Flanders* about the wearing of Colors or Flags in every ship, and punishing offendors by Sea, *William de* **Leyburn** is called [e] *Admiral de la mier du dict Roy d' Engleterre*, or *Admiral of the Sea of the said King of England*. Other Testimonies of the same kinde there are in Records touching the Dominion of the Sea, as it hath been received and acknowledged according to the Common Law and Custom of our Countrie, which I shall discourse of in the next place, and after that, concerning the Testimonie of Foreiners.

[e] 1286. *seu* 15 Ed. 1. *in Fascic. de superioritate, Maris*, in Arce Londinensi.

Of divers Testimonies in our own Law-Books, *and the* most received Customs, *whereby the Sea-Dominion of the King of* England, *is either* asserted *or* admitted.

Chap. XXIV.

THE seventh of those Heads, according to the former Division, which manifest the aforesaid Dominion of the Kings of *England*, relate's to our Law-Book's, and the received Customs therein, which prove it from the most antient times. There are also in them many Particulars that may relate hereunto, which are explained now and then touching the Guard of the Sea, the *English* Admiraltie, and other things alreadie handled. But in this Chapter wee shall use either the determinations and Commentaries of our own Lawyers, or chiefly such Court-Records as explain their opinions. I confess indeed in som of the

Autors

Authors of our Law who wrote above CCCL. years ago or thereabout, after they had (as the manner then was) read through the *Civil Law* also, they were so strict in following those determinations word for word, which they found concerning the Sea in that Law, that when they treated *de acquirendo Rerum Dominio* **of the manner of acquiring the Dominion of things**, they transferr'd them into their own writings. From thence it is, that *Henry Bracton*, who was a very famous Lawyer at the later end of the reign of *Henrie* the Third, saith, [a] *Naturali jure communia sunt omnia hæc, aqua Profluens, aër, & Mare, & litora Maris quasi Maris accessoria.* **By the Law of Nature all these things are common, running water, the Aër, and the Sea, and the shores of the Sea as accessories or dependants of the Sea.** Also, *ædificia, si in mari sive in litore posita fuerint, ædificantium sunt de Jure gentium*, **If Buildings bee raised in the Sea, or upon the shore, they becom theirs that build them by the Law of Nations.** And a little after, *Jus piscandi omnibus commune est in portu & in fluminibus*, **a Right of fishing is common to all in a Haven and in Rivers.** Which wee finde likewise in [b] som other of our Law-Books of that Age, as a passage that fell from som Writers (of whom I spake at large in the former Book) that were more affected than was meet with the words of *Ulpian* and *Justinian*, in the general division of things. But these very men in other places, shewing the Customs of our Countrie, do sufficiently admit the King's Dominion by Sea. For *Bracton* himself afterward speak's of them that by the King's grace and favor [c] *quieti sint de Theolonio & consuetudinibus Dandis per totum regnum Angliæ in terrâ & mari, & per totum Regnum tam per terram quàm per mare*, **Were exempted from**

[a] *Lib. 1. seu de Rerum divisione, cap. 12. §. 5. & 6.*

[b] *Autor Fletæ Ms. lib. 3. cap. 1. Breton lib. 2. cap. de* Purchas.

[c] *Bracton lib. 2. cap. 24. § 2. & 5. fol. 56. & 57.*

from paying Tolls and Customs, throughout the Whole Kingdom of England **in the Land and in the Sea; and throughout the Whole Kingdom both by Land and by Sea.** And in the same King's time a freedom from som paiments was granted to the Citizens of London [d] *per totum Regnum tam per mare quàm per terram*, **throughout the Whole Kingdom as well by Sea as by Land.** And so *Bracton*, when hee return's to speak of the Customs of our Countrie, acknowledged that the Dominion of the Sea belong'd to his King no less then the Land. And hence it came to pass also, that *inter Capitula Coronæ* (as they call them) that is to say, those **Articles or chief heads**, whereof enquirie was to bee made according to the usual custom, by Judges delegated throughout *England* for the conservation of the publick peace, wee finde this also, *de Purprestur is factis super Dominum Regem, sive in Terrâ sive in Mari, &c.* **Of** * **Pourprestures made upon our Lord the King, either on Land or in the Sea, or in sweet Waters, either Within the Libertie or Without, or in any other place Whatsoever.** And it is placed among the Articles of this kinde recited by [e] *Bracton* himself, and in the [f] Autor of the Book called *Fleta*. But in the language of the Law wee call those things *Pourprestures*, whereby detriment is don to any publick place belonging to the Patrimonie of the Crown, as a publick thorow-fare, a River, and the like: So that according to the nature of this ordinarie Article touching *Pourprestures*, in the general form of enquirie, the Dominion or Ownership of the Sea is ascribed to the King, no less than of the Land, or of publick Road or thorow-fare, and River. agreeable hereto is that Article about any kinde of salt-waters beeing inclosed by any subject, or possessed in any

[d] *Rot. Pat. 51 Hen. 3. membr. 11.*

* *Pourprestu-re* is properly, when a man encroacheth, or when any thing is don to the nusance of the King's Tenants.

[e] *Lib. 3. de Corona, cap. 1. § 3. & cap. 2. § 1. fol. 116b. & 118a.*

[f] *Fleta, Ms. lib. 1. cap. 20.*

any other manner; which in the antient Records of our Court of Admiraltie is ſaid to bee don, *to the diſherition of the King*. The words are there, [g] Item *ſoit enquis de ceulx qui acrochent à eulx eaves ſalees en deſheretiſon du Roy*. And at this day, enquirie is wont to bee made, about that buſineſs, by Autoritie of the high Admiral. *Robert Belknap* alſo, an eminent Judg in the time of *Richard* the Second, [h] ſaith that the Sea is ſubject to the King, as a part of his Engliſh Kingdom or of the Patrimonie of the Crown. His words in the *Norman* tongue run thus; *Le Mere eſt del ligeans del Roy, come de ſon corone d' Angleterre*. Hee added to his words, in a remarkable way, *as belonging to the Crown of* England, *or as belonging to the Royal Patrimonie of England*, to the end that no man might queſtion, whether the Sea belong'd to his King by the Right of the Kingdom of *England*, or of the Dutchie of *Normandie*, or of any other Province in *France*. Another alſo, who wrote in the time of *Henrie* the Eighth, ſaith, it hath been received by antient cuſtom, that it is a dutie lying upon the King of *England*, as Lord of the *Britiſh* Sea, to ſcour the Sea of Pirates, and to render the uſe thereof as of a publick Road or Thorowfare whoſe ſoil is within his Patrimonie) ſafe for Shipping. For, hee expreſſeth himſelf in *Engliſh* thus; [i] **The King of the ould Cuſtome of the Realme, as the Lord of the narrow Sea, is bound, as it is ſaid, to ſcoure the Sea of the Pirates and petit robbers of the Sea.** So much alſo, as to what concern's Dominion, is without controverſie admitted by our [k] Lawyers of later time. And it appear's by publick Records, conteining divers main points, touching which the Judges were to bee conſulted for the good of the Common-weal in the time of King *Edward* the Third, that the King's Sea-Dominion, which they cal-

[g] *Cod. Ms. de Admirallatu, fol. 18b. Artic. in Admirallat. inquirend. Edit. anno 1595. num. 33.*

[h] *6. Rich. 2. Fitzherbert tit.* Protection. *46.*

[i] *Seingerman. lib. 2. cap. 51.*

[k] *Ed.* Coke *part. 5. fol. 108. & in Comm. ad* Littleton *ſect. 439. fol. 260.*

led *the antient ſuperioritie of the Sea*, was a matter out of queſtion among our Lawyers of that Age. But conſultation was had for the more convenient guarding of it: For, the whole Bench of Judges were adviſed with *to the end* (ſo wee read it in the [1] Records; and that is eſpecially to bee obſerved which wee finde here about the firſt beginning of the Naval Laws of the *Iſle of Oleron*, ſeated in the Creek of *Aquitain* at the mouth of the River Charente) *that the form of proceeding heretofore ordained and begun by* Edward *the firſt, grandfather of our Lord the King and his Council, at the proſecution of his Subjects, may bee reſumed and continued, for the reteining and conſerving of the antient ſuperioritie of the Sea of* England, *and the Autoritie of the Office of Admiraltie in the ſame, as to the correcting, expounding, declaring, and conſerving the Laws and Statutes long ſince made by his Predeceſſors Kings of* England, *for the mainteining of Peace and Juſtice among all people of what Nation ſoëver paſſing through the Sea of* England; *and to take cogniſance of all attempt to the contrarie in the ſame; and to puniſh Offenders and award ſatisfaction to ſuch as ſuffer wrong and damage; Which Laws and Statutes were by the Lord* Richard *heretofore King of* England, *at his return from the holy Land, interpreted, declared, and publiſhed in the Iſle of* Oleron, *and named in* French **le ley Dlyroun.** Here you have it declared as a thing moſt received and certain, that the King of *England* hath, by antient right, been Lord of the Sea, of the ſame name, or that which flow's about it. But that whereof the Bench of Judges were to conſult, was onely about the orderly maintenance of this right. Nor is it truly a ſmall ſign of this Dominion, that *Richard* the Firſt King of *England*, beeing in the *Iſle of Oleron*, which hee poſſeſſed as ſeated in his own Sea, not ſo much for that hee was Duke of *Aquitain* as King of *England* (whereof wee have alreadie ſpoken) did, as ſole Ruler

[1] *In Faſcic. de ſuperioritate maris*, in Arce Londinenſi.

Ruler and Moderator of Sea-affairs, first publish those Naval or Sea-Laws in that his Island, which hold in force to this day, and from that time gave them so large and perpetual an Autoritie by that name, that as the *Rhodian* Naval Laws (as the case stand's) do prove, that the *Rhodians* in antient time were Lords of the *Grecian* Sea, so the Laws of *Oleron* having [m] obteined such a kinde of Autoritie by Sea, from their first Institution, must ever declare the King of *England* as the Autor, to bee Lord of the neighboring Sea round about. But som printed Copies of these Laws, make them about sixtie years later than the Reign of that *Richard*; by what autoritie, I cannot tell. For, they relate them to have been made in the year MCCLXVI, which is the fiftieth year of our *Henrie* the third. Also, in the Law of the Land, it is reckoned among the Privileges of such as are absent, that they, who shall bee out of the Realm of *England* at the levying of a *Fine* of any Land, and making Proclamations thereupon, are not so bound either by a yearly prescription, as heretofore, or by a five years prescription, as is usual of later time, but that their Right remain's entire to them upon their return home, if they make their claim, within the like spaces of time. But *intra regnum* **Within the Kingdom** is by the same Law taken, and that in the usual phrase for that which is *intra* (or as it is wont to bee barbarously render'd *infra*) *Quatuor Maria*, **within the** [n] **four Seas**, to wit, the Southern, Western, Eastern, and that Northen Sea which washeth both the sides of that neck of Land, whereby *Scotland* is united to *England*. That is to say, within the outmost bounds of the *English* Empire in those four Seas, or within the opposite Shores of the Eastern and Southern Sea or Ports belonging to other Princes, and within the bounds of the Northern and Western

[m] *Edict. France, tom. 3. tit. 2. Juribus & privilegiis Admiralli §. 19.*

[n] *Stat. 18. Ed. 1. seu de modo levandi Fines. Bracton, lib. 5. de exceptionibus, cap. 30. fol. 437. 2. Ed. 3. fol. 9a. 4. Ed. 3. fol. 46. pl. 30. Fitzherbert 8. Rich. 2. tit. Continual Claim, 13. Plowden, Comment. 1. part. fol. 359. & 360. &c.*

Western Sea, which indeed are to bee bounded after another manner; but yet to bee bounded: that is, according to the extent of possession West-ward beyond the Western Shores of *Ireland*, and by the first beginning of that Sea, which is of the Scotish name and jurisdiction. But that which is opposed to this Particle *intra quatuor maria*, **within the four seas**, is that [o] *extra quatuor Maria*, **without the four seas**, or to bee in the parts so beyond the Seas, that they bee beyond the bounds of the Sea-Dominion of the King of *England*; from whence wee are to determine of the bounds or exterior limit of the Seas. And although the *Land of England* bee sometimes used for that which is the whole Realm, or English Empire, as signifying the same, a more ordinarie and indeed more brief expression beeing applied (as is usual) in stead of a more large; yet it certainly appear's, that *extra quatuor maria*, **without the four seas**, and *extra Regnum*, **without the Realm**, do in our Law-Books signifie the very same thing (that is to say, so far as the extent and latitude of the whole English Empire is comprehended in the name of Realm, not as the Realm of *England*, is now and then distinguished in [p] our Law from *Ireland*, which also is a distinct Dominion of the same Empire, or from the other Islands which are reckoned in the Roial patrimonie of the Kings of *England*.) For, it is usual in the Language of the Law, so to describe him, who, in that sens, shall bee out of the Realm. And whereas in the Reign of *Richard* the second to an objection made against one that would avoid the yearly prescription as not bound by it, for that hee was not in *England*, it was excepted that hee was in *Scotland*, and so within the four Seas; It was thereupon [q] answer'd and rul'd by the Court,

[o] *Bracton ib.* & **Coke** 7. *Jacobi R. part.* 8. *fol.* 100. *Cas. Rich.* **Richard.**

[p] **Coke**, *part.* 7. *in cas. Calvini, fol.* 23.

[q] **Fitzherbert**, *tit.* Continual Claim, 13.

Court, that the Exception was of no force, for that *Scotland* was not within the Bounds and Limits of *England*. So that **within the four Seas,** and **within the Realm,** signified one and the same thing; from whence these terms, **out of the Realm,** and **without the four Seas**, becom one and the same also. *To bee out of the Realm,* is very [r] often repeated in this sens also, by *Littleton*, the most excellent of all our Law-Writers, signifying no other thing than what hee renders it in [s] another place, by one who *ala outstere le mere,* **crossed the Sea,** or, **went beyond sea.** From thence also it seem's to have proceeded, that, whereas with us, among the several temporal excuses of Defendants, who are summoned to appear in Court (in our Law wee call them * *Essoins*) there are two alleged, whereof the one is intitled *de ultra Mare*, the other *De Malo veniendi*, and this latter is allowed to him that is hindred by any kinde of misfortune whatsoëver, *within the Seas,* or on this side of the more remote bounds of those Seas, which belong to *England*; but the former to him who live's *without, or beyond the Seas*, belonging to the English Empire; From thence it seem's, I say, to have proceeded, that, in former times, when there was a more frequent use in Court of this kinde of excuses, a Defendant beeing absent in *Ireland*, might lawfully make use of the latter form of *Essoin*, but not of the former. Nevertheless, if through ignorance hee did make use of this, it took on the nature of the latter, that is, wholly quitting all its own nature, it depended upon this, that the Defendant, according to the more vulgar sens or acception, lived *beyond Sea*. For, according to received Custom, the nature of them both was such, that when any one might lawfully use the former, hee might also after

[r] *Sect.* 440. & 441.

[s] *Sect.* 677. & *vide sis* **Plowden**, *Comment. part.* 1. *fol.* 359. & 360

* *Essoin* is an alledgment of an excuse for him that is summoned, or sought for to appear, and answer to an action. It is as much as *excusatio* with the Civilians.

after a while likewiſe enjoy the benefit of the latter. But in the ſaid kinde of *Eſſoins* or Excuſes, the former not beeing lawfully made uſe of, but yet turned into the latter by conſtruction of Law, leſt it ſhould becom of no uſe, there was no place for the latter; to the end it might not bee iterated contrarie to Cuſtom. The matter it ſelf was thus decided in the time of K. *Henrie* the third, as it is deſcribed by *Henrie Bracton*, after this manner. *Eſto*, ſaith [t] hee, *quòd quis ſe Eſſoniaverit de Ibernia quaſi de ultra Mare; attornatur Eſſonium illud ad ſimplex Eſſonium de Malo veniendi ut coram Martino de* **Patteſhul** *in Banco, anno Regis Henrici Sexto de Gilberto Mariſcallo & Ceciliâ uxore ejus & Allano de Hyda, qui vocavit ad Warrantum Willielmum Mariſcallum in Comitatu* **Pembroke**, *& qui ſe eſſoniavit de Ibernia, & non fuit allocatum, & poſtea fecit de hoc quòd aliud eſſonium de malo veniendi ad alium diem non fuit allocatum.* So much wee finde alſo in the antient Autor of that Book entitled [u] *Fleta*. Doubtleſs, *Ireland* is no leſs ſeated beyond ſea, than either *France* or *Spain*, unleſs you take that deciſion, as relating onely to the Civil notion of this kinde of ſituation; to wit, that it is not ſituate beyond that Sea which is a part and Territorie of the Engliſh Empire, but placed therein, and comprehended under one and the ſame Supreme Power with *England*; and ſo that an Excuſe or *Eſſoin de ultra mare*, is not in that kinde to bee admitted. In the antient [x] Records alſo concerning the Cuſtoms of our Court of Admiraltie, wee read it was an uſual Cuſtom in the time of King *Henrie* the firſt (who died *Anno Dom.* MCXXXVI.) and of other Kings both before and after him, That, if any man accuſed of a capital crime don by Sea, beeing publickly called five times by the voice of the Crier, (after ſo many ſeveral daies aſsigned) did not make his appearance

[t] *Lib. 5. tract. de Eſſoniis, cap. 8. §. 2.*

[u] *Ms. lib. 6. cap. 8.*

[x] *Ms. fol. 12b.*

pearance in the Court of Admiraltie, hee was baniſhed out of *England & de mer appurtenant au Roy d' Angleterre*, or *out of the Sea belonging to the King of England*, for fourtie years, more or leſs, according to the pleaſure of the Admiral. Other particulars there are that relate hereunto about Actions for matters ariſing in this Sea, that were wont to bee entred in expreſs terms heretofore, in the [r] ordinarie Courts of our Common Law, whoſe Juriſdiction was ever eſteemed of ſuch a nature, that an Action inſtituted about a matter ariſing in any other place than within the bounds of the Realm, was by the antient ſtrict Law, alwaies to bee rejected by them. After which manner as it hath been a Cuſtom now for many years, that an action ought to bee rejected, unleſs the matter have its riſe within the *Bodie*, (as they call it) *of the Countie*, that is, within ſom Province or Countie of the Iſland, uſually given in charge to certain Governors or Officers, known to us by the name of *Sheriffs*. So alſo is it in this Sea-Province, belonging, by the antient received Cuſtom, to the high Admiral, or his Deputies, not onely ſo far as concern's its defence and guard, but alſo as to matter of Juriſdiction. So that at length it is manifeſt, that the Sea-Dominion of the King of *England*, is without controverſie admitted and aſſerted alſo, both by the Determinations and Cuſtoms of the Law of the Land, and by the expreſs words of the Writs and Forms of the Actions themſelvs.

[r] *Temp. Ed. 1. Fitzherbert tit. Avowrie 192. & Placit. 37. & 38 Hen. 3. Rot. 10. Devon. Itin. Suſſex. 47 Hen. 3. Rot. 10. Trin. 50 Hen. 3. Rot. 22. & Trin. 24 Ed. 3. in Brevibus Regis inter Pilke & Henoze*; quæ in Arcis Londinenſis Archivo. Ejuſmodi item ſunt alia.

Nor is that of any force at all to the contrarie, which either our Countrie-man *Bracton* the Lawyer, (as hath been ſaid) or ſom others, of late as well as antient time, that are Followers of him, but in too careleſs a manner, (while they [z] ſet down the Inſtitutions of our Engliſh Law) have unadviſedly utter'd by the way,

[z] *Jo: Cowel. Inſtit. Juris Anglicani lib. 2. tit. 1. ſect. 3. & 4.*

touching that antient communitie of the Sea; and of Fishing also in Rivers, according to the Books of *Justinian*; as if such a kinde of communitie were admitted in our Law. Truly, that which they have so let slip, is not so much to bee taken as contrarie to the known Law of the Land in this particular (for, even *Bracton* himself, as I have shewn, hath divers other passages that signifie this Dominion of the King) as it is to bee reckoned for som of the reliques of *Ulpian*, or of the School of the Imperial Law, too slightly and carelesly added by the way in writing. And the like may bee said of [a] one or two more of our Writers, who after the manner of reasoning, received for the most part in the Imperial Law, touching the middle of a River, and an Island risen therein, do by the way, but ignorantly, make the middle of the Sea flowing between to bee the bound of this Sea-Dominion of our Kings. Moreover, the same may bee said likewise of the [b] Commissioners of Queen *Elisabeth*, who treating at *Bremen* with the Commissioners of *Christiern* the fourth King of *Denmark*, about a freedom of Navigation through the Northern Sea, object a perpetual communitie of every kinde of Sea, from the Law of Nations, denie a Dominion, and wrest other things by way of Argument out of the Writers of the Imperial Law, which are clearly contrarie to our English Right, as also to the *Intervenient Law* of Nations, which hath continued in force for so many Ages about the Dominion of the Sea. Either, I say, the same must bee said of them, or els that they did not so much make choice of Arguments which they thought were true, to serv the present occasion, as of such that might seem to have the greater force and autoritie among those Civil Lawyers with whom they were in Trea-

[a] *Andreas* Horn, *Ms. in speculo Justitiariorum, lib.2.& Joannes* Dee *in Monarch.Britan. pag.21.*

[b] *Anno 1602 apud Camden. in Annalibus, Tom. pag. 272.* Edit. Londinens.

Treatie. Nor is it a new thing, that *Civilians* ſhould ſpeak of a natural and perpetual communitie of the Sea, even where it is moſt certain that a Dominion thereof is admitted from all Antiquitie, in the very Territorie wherein they themſelvs are comprehended; as I have formerly declared. There are alſo very many Rights among us, belonging either to the Exchequer, or to ſuch as enjoy the Right of the Exchequer by Grant from the King, which ſom conceiv to bee grounded upon that Sea-Dominion, whereof wee diſcourſ: As the confiſcation of Goods derelict in the Sea, and of ſom of the greater ſort of Fiſh, as Wale-Fiſhes, Sturgeons, and others. And for the moſt part that of the Satyriſt hold's good,

[c] *Quicquid conſpicuum pulchrúmq; ex æquore toto eſt,*
Res Fiſci eſt ubicunqae natat.——

[c] *Juvenal. Satyr. 4.*

Goods in the ſea of any worth and note,
Belong to th'Exequer whereſoe're they flote.

Beſides wreckt goods caſt out aſhore, when no living creature belonging to the ſhip remain's alive. But theſe things do not onely appertain to him that is Lord of the Sea, but ſomtimes alſo to others in other Nations. And they for the moſt part depend, either upon the Law or Cuſtom of ſom Land, as in the caſe of Goods caſt aſhore, or of ſuch as are found and imported; or elſ upon a Right over ſuch Perſons as ſhall firſt poſſeſs them, as in the caſe of any Goods whatſoever derelict or found in the Sea, and others of that kinde. Therefore I thought it not meet to draw thoſe things here into Controverſie.

Som antient Teſtimonies of leſs account, *touching the Sea-Dominion, whereof wee Treat.*

Chap. XXV.

THE laſt head in the afore-mentioned Diviſion is concerning ſom Teſtimonies of a leſſer account.

There hath been a piece of Gold very often coined by our Kings, called a *Roſe-noble*, which was ſtampt upon one ſide of it with a ſhip floting in the Sea, and a King armed with a Sword and Shield, ſitting in the ſhip it ſelf, as in a Throne, to ſet forth a Repreſentation of the Dominion of the Engliſh by Sea. The firſt Autor hereof was *Edward* the third; when

hee guarded his own Sea with a very numerous Navie, conſiſting of [a] Eleven hundred Ships; at which, as at other times, hee marched victoriouſly through *France*. Queſtionleſs, our Kings in a manner followed the example of *Caius Allectus* in this particular, who having gotten poſſeſsion of the *Britiſh* Empire, (as was ſhewn [b] before) expreſſed his own Dominion by ſuch a kinde of Coin. This patern, which I have placed here,

[a] *Thom. Walſingham 1359. ſeu 33 Ed. 3.*

[b] *Cap. 5.*

here, belong's, I ſuppoſe, to *Edward* the Fourth. And in a Book [c] lately ſet forth in *France* of the Coins belonging to the *French* Kingdom there are ſom that were ſtamp't by thoſe Kings of *England* who were alſo Kings of *France*. But that thoſe *Inſignia* of a Ship, the Sea, a Sword, and a Throne, did relate to the right of the Crown of *England*, not at all to that of *France*, cannot bee doubted by any, who ſhall obſerv, that there is not the leaſt impreſs or print of that thing to bee found in thoſe *French* pieces, that were coined by the Kings onely of *France*. And whereas there are in the Coins of *Zeland*, certain repreſentations of Sea-Dominion, as a Lion iſſuing out of the Sea, and other things of that kinde; yet truly that is but of late time, and in no caſe a pointing out of Dominion (if you except their Ports and inner ſpaces of the Sea included within their Iſlands) but onely of the kinde of life and ſituation of the people. But the aforeſaid *Engliſh* Coin had an inſcription upon the reverſ (which is not unuſual in the gold Coins of our Countrie) taken out of the Goſpel, viz. *Jeſus autem tranſiens per medium illorum ibat*, which [d] ſom have conceived was a ſentence in uſe among the Chymiſts, who by a cuſtomarie profanation of the name and paſſage of our Saviour, thought to ſet forth the majeſtie and dignitie of that Art of theirs, which refined the gold for theſe Coins in the time of *Edward* the Third; Others, that it ſerved for an Amulet or Charm to make a man invulnerable or Shot-free. Wee finde indeed in ſom [e] Lawyers, that theſe words are placed among thoſe, that are uſed by men brought under Examination upon the Rack, to eaſe and drive away their pain: Touching which it is not worth the while to ſpend any farther Diſcourſ. But as for the meaning of the impreſs on the other ſide of the Coin, it is thus explained by a certain Verſifier, whoſe

[c] *Figures des monoyes de France, fol.* 131. & 132.

[d] *Apud Guil. Camden* Remains *pag.* 206. *Edit.* 1614.

[e] *Paulus Grillandus, Tract. de Quæſt. & Torturâ, q.* 4. *num.* 13. & 14.

name is unknown, but hee wrote in *Engliſh* Rythme, in the time of *Henrie* the Sixt, *touching the conſervation of the Government of the Sea* [f];

[f] *Ms. in* Biblioth. Cottonianâ, & *vide G. Camden. in loco antè citato.*

For foure things our Noble ſheweth to me,
King, Ship, and Sword and Power of the Sea.

But his intent is, earneſtly to perſwade the *Engliſh* that it is their main intereſt diligently to guard the Sea (whereof the Kings of *England* are Lords) and to defend it with all their might, as the perpetual prop and ſupport of their Empire. Hee ſaith alſo, that the ſame advice was given by the Emperor *Sigiſmund*, at his enterview with our *Henrie* the Fifth, for the procuring of on peace betwixt him and *Charls* the Sixth King of *France*. Give mee leav to ſet down his words.

The true proceſſe of Engliſh policie
Of utterward to keep this region
Of our Englond (that no man may denie
Nor ſay of ſooth but it is one of the beſt) [Weſt,
Is this; that who ſeeth South, North, Eaſt, and
Therish merchandiſe, keep the Admiraltie,
That we be Maſters of the narrow See.

For Sigiſmund the great Emperour,
(Which yet reigneth) when he was in this lond
With King Henrie the fift, Prince of honour,
Here much glory, as him thought, he found;
A mightie land which had taken in hand
To warre in France, and make mortalitie,
And ever well kept round about the See.

And to the King thus he ſaid, My brother
(When he perceived two townes Calys and Dover)

Of

Of all your towns to chuſe, of one and other,
To keep the Sea and ſoon to com over
To werre outwards and your reign to recover,
Keep theſe two towns ſure, and your Majeſtie,
As your tweyne eyne, ſo keep the Narrow See.

For if this See bee kept, in time of warre
Who can here paſſe without danger and wo?
Who can eſcape? Who may miſchief differre
What marchandie may for by be agoe?
For needs hem muſt take trewes euery foe,
Flanders and Spaine, and other, truſt to me,
Or elſe hindred all for this Narrow See.

What is conteined more at large in theſe Rhythmes, you have the ſenſ of it contracted above in few words. It is not worth while to render the words themſelvs. The ſame Verſifier alſo proceeds thus;

But King Edward made a ſiege royall
And wanne the town; and in ſpeciall
The Sea was kept, and thereof he was Lord;
Thus made he * Nobles coined of Record.

* By *Nobles* here are meant the *Roſe-Nobles* that hee coined.

Wee have alſo divers other very large Domeſtick Teſtimonies of this thing, which are added in the next place, beeing mingled together with the antient Recognition or acknowledgment of forein Nations concerning the ſame.

That

That the Sea-Dominion of the Kings of England *is acknowledged by* Foreiners, whom it moſt concern's, *by their* uſual ſtriking of Sails, *according to antient Cuſtom. Alſo concerning two Edicts or Ordinances that were ſet forth about this Thing, by the Kings of* France.

Chap. XXVI.

WEe are com now to Foreiners. And it is clearly evident, by what wee have diſcourſed before, either touching the limits ſet for Navigation by the King of *England*, or the Licence of paſſage through this Sea often deſired by Petition, that ſom of them have indeed acknowledged this Dominion. But there are two Teſtimonies more notable than the reſt, which ſhew (if you conſider chiefly, as you ought, their beeing Neighbors, and ſuch whom it concerned) that they generally did the ſame. The one is the uſual ſtriking of the Top-ſails, by every Ship of any Forein Nation whatſoêver, if they ſail near the King's Navie or any Ship belonging to the ſame Navie in the Sea. The other is a *Libel* publiſhed of old, or a *Bill of complaint* inſtituted, wherein very many forein Nations heretofore, in the time our *Edward* the Firſt, did all together, and by common conſent with the *Engliſh*, acknowledg the Dominion of the Kings of *England* by Sea. Whereto I ſhall add alſo a particular declaration of that kinde, made by the *Flemings*, in an Ambaſsie to our *Edward* the Second.

But

But that the striking of Sails is don, not onely in honor of the *English* King, but also in acknowledgment of his Soveraigntie and Dominion in this Sea, is, I suppose, a thing out of question. Certainly, the *French* cannot doubt of it, who, by such a kinde of striking, would have had themselvs heretofore acknowledged Lords of our Sea; but in vain. That is to say, they were as much over-seen in the former Age, in setting forth two Edicts or Ordinances, to require and ratifie such a kinde of striking Sail to themselvs by all Foreiners, as they were in so rashly vindicating the Sea-Dominion of the King of *England*. Concerning those Edicts wee spake before in the [a] former Book; Neither of which was received as valid in any Court of Justice, according to a decision made in the [b] supreme Court of Parlament, which wee have observed also in that place. Yea, and here I shall set down the very words used by *Ludovicus Servinus* Advocate general to the King of *France*, to magnifie the Autoritie of those Edicts or Ordinances, at the time of that Decision. The one of them beeing set forth by King *Henrie* the Second of *France*, or in the year MDLV; the other by *Henrie* the Third, or in the year MDLXXXIV, they were both objected by those, who required a striking of Sail to them in the name of the *French* King, even without the bounds of *France* (for, the words of the Edicts did not relate onely to the Sea confining upon *France*;) upon which ground also they offer'd violence to certain *Hamburgers* who refused to do this, and seized them as guiltie of contempt against the dignitie and Dominion of the *French* by Sea. But as to this thing, saith *Servinus*, it may bee said on the contrarie, *That the* (Edicts or) *Ordinances of the Realm making injunction to strike and com aboard, have not been observed and are not to this day; And it doth not appear that of the*

[a] *Cap.* 18.

[b] *Ludovic. Servin. Plac.* 11. *Tom.* 2. 1592. *pag.* 262. *Edit.* 1609.

year 1555. *hath been verified in the Court of Parlament, but the Defendants do report onely an extract out of the Regiſter of* Broüage (which indeed is evident enough when that *Edict* is objected by the[d] ſame man.) *Moreover*, it was an old obſolete Law, *and that which prove's it, is the new Ordinance of the year* 1584. *For, there had been no need of a new Law if the old one had been kept*; *And notwithſtanding that the laſt hath not been verified ſimply, but as it was promoted by perſons in Power at that time, it did not paſs without reſiſtance, but was Regiſtred and Publiſhed with the Qualification required by the Procurator General, at the charge of the Executor, according to the antient Forms, and ſuch as the Officers of the Admiraltie had made in former time, without doing any thing anew.* The former *Edict*, which was objected, was never admitted by the Eſtates of the Realm; for, nothing of that matter is to bee found in the Records of Parlament, which is the proper place for a Teſtimonie of its admiſsion. But the later was indeed admitted, though as to any effect of a Law, either at that time to bee enacted or introduced, or as received before into Cuſtom, it was plainly rejected, and that at the inſtance of the King's Procurator; who deſired it might bee ſo qualified, as you ſee, that what was grounded upon antient Cuſtom, it onely might bee ratified, even after this Edict was ſo admitted in favor of ſom great Ones. Which was diſcreetly don; ſeeing both the Edicts were extremely contrarie to the Cuſtom of their Neighbors, yea, and of all Foreiners. But as to the buſineſs of ſtriking ſail, which they would have to bee a ſpecial Sign or Pledg of their Soveraigntie and Dominion in thoſe Edicts, which notwithſtanding, upon ſecond thoughts, were rejected afterwards in Law (as hath been ſhewn;) truly, it having been uſually and perpetually acknowledged due for ſo many Ages to the *Engliſh*,

[d] *Servinus, placit. citat. pag.* 254.

Engliſh, and performed accordingly both by ſtranger, and by the *French* themſelvs (as a matter grounded upon long preſcription) can bee no ſlight argument among the *French*, to confirm that Dominion of the *Engliſh*, whereof wee treat.

Moreover, it is affirmed by all that are uſed to the Sea as a thing out of Queſtion, that this intervenient Law or Cuſtom of ſtriking ſail hath been very uſual to the *Engliſh* and other Nations; And that it is very antient and received for above four hundred years, appears by this, that at *Haſtings*, a Town ſituate upon the Shore of *Suſſex*, it was decreed by King *John*, (in the ſecond year of his Reign, or of our Lord MCC) with the aſſent of the Peers; that if the Governor or Commander of the King's Navie in his Naval Expeditions (which were all in that Age upon the Southern Sea) ſhall *encontre ſur la mer* (ſo the words run in the Norman Tongue) *aucunes Nefs ou veſſeaulx charges ou voide, qui ne vevillent avaler & abeiſſer leurs triefs, au commandement du Lieutenant du Roy ou de l' Admiral du Roy ou ſon Lieutenant, mais combatant encontre ceulx de la flote, que, ſilz puent eſtre pris, quils ſoient reputez comẽ enemies, & leurs Nefs veſſeaulx & biens pris & forfaits come biens des enemies, tout ſoit que les Maiſtres ou poſſeſſours d' iceulx voudroient venir apres & alleguer meſmes les Nefs veſſeaulx & biens eſtre des amies du Roy noſtre ſeigneur; & que la menye eſtant en iceulx ſoient chaſtiez per empriſonement de leur corps pur leur rebelleté par diſcretion*; That is to ſay, *ſhall meet any Ships whatſoëver by Sea, either laden or empty, that ſhall refuſe to ſtrike their Sails at the command of the King's Governor or Admiral, or his Lievtenant, but make reſiſtance againſt them which belong to his Fleet; That then they are to bee reputed enemies if they may bee taken,*

[c] *Ms. Commentar. de rebus Admiral, fol. fol. 28.*

taken, yea and their Ships and Goods bee confiscated as the Goods of Enemies. And that, though the Masters or Owners of the Ships shall allege afterwards that the same Ships and Goods do belong to the friends and Allies of our Lord the King. But that the Persons, which shall bee found in this kinde of Ships, are to bee punished with imprisonment, at discretion, for their Rebellion. It was accounted Treason, if any Ship whatsoêver had not acknowledged the Dominion of the King of *England* in his own Sea, by striking Sail: And they were not to bee protected upon the Account of Amitie, who should in any wise presume to do the contrarie. Penalties also were appointed by the King of *England*, in the same manner as if mention were made concerning a crime committed in som Territorie of his Island.

A Recog-

A Recognition or Acknowledgment of the Sea-Dominion of the King of England, made by very many of the Neighbor-Nations round about, *in an* antient Libel publickly exhibited, *or in a Bill of Complaint inſtituted by them, together with the Engliſh,* againſt *Reyner Grimbald* Governor of the *French* Navie. *Alſo, touching a Recognition of this kinde implied in his Defence.*

CHAP. XXVII.

THe other Teſtimonie concerning the Recognition of moſt Forein Nations in this particular, is that *Libel* or *Bill of Complaint* heretofore inſtituted by very many Nations together, wherein they unanimouſly declared the King of *England* and his Predeceſſors to bee Lords of the Sea flowiug about, and brought them to give an acompt in a Court of Judicature, who preſumed to violate that Right: For the well underſtanding whereof, I ſhall relate the whole matter more at large.

A war being on foot between our *Edward* the Firſt, and King *Philip the Fair* of *France*, it was ſo concluded ſomtimes by agreement, that there might notwithſtanding bee a Freedom of Commerce on both ſides, and ſo a Truce with all Merchants whatſoëver on either ſide; but as to other things, hoſtilitie proceeded in the mean time (as it was wont) betwixt both the Nations.

This special kinde of Truce was called [a] *Sufferentia guerræ*, **sufferance of war**, and during war, there were certain persons appointed by both Princes, to take cognisance of things don contrarie to this Truce, and pass their Judgments, *according to the*[b] *Law or Custom of Merchants, and the Form of Sufferance.* After a revolution of som years (wherein this kinde of Truce took place, and somtimes not) a League was made in the year of our Lord MCCCIII. which is the one and thirtieth of *Edward* the first. The first Article of that League is, [c] that those Kings should not onely bee at amitie with eaeh other, but also that they should defend one another in all manner of Rights, against any others whomsoëver, except the Church of *Rome*, and on the part of the King of *England*; his son in law *John* Duke of *Brabant*; but on the part of the King of *France*, *Albertus* King of the *Romans*, and *John* Earl of *Henault*. But the third Article thereof (for the first and third is of singular use in that *Libel* or Bill of Complaint, as will appear by and by) is this, *Item il est accorde qe l' un ne receptera, ne sustendra, ne confortera, ne fera confort, ne aide as Enemies de l' autre, ne soffera qu' ils eient confort, souccors, ne aide, soit de gent d' armes, ou de vitailes, ou d' autres choses queles q' eles soient de ses terres ou de son poiar, mais adiondera sur peine de forfature de corps & d' avoir & empeschera à tot son poair loiaument en bon foi qe les dits enemies ne soient resceipts ne confortes es terres de sa seignurie ne de son poiar, ne q' ils en aient confort soccours ne aide soit gents d' armes, des chevaux, d' armeures, de vitails, ou d' autres choses queles q' eles soient*: which is in English to this effect; that, according to this contract of amitie, they were neither of them in any wise to cherish the enemies of the other, nor suffer any kinde of aid or relief to bee afforded them in their Territories. The war beeing thus at an

[a] *Rot. Claus. 25 Ed. 1. in Sched. annex. Membranæ 26. Rot. Alemanniæ à 22 Ed. 1. ad 31 Ed. 1 &c.*

[b] *Rot. Pat. 26 Ed. 1. part. 2. mem. 24. in dorso.*

[c] *Fœdus integrum habetur in Rot. Alemanniæ, 31 Ed. 1. Membranâ 2.*

an end, becauſ there aroſe very many complaints concerning injuries don up and down, as well in the more open as in our own Sea, during the ſpecial Truce afore-mentioned, but alſo it was probable that others of that kinde might ariſe perhaps after the League was made, eſpecially by reaſon of the differences at that time betwixt the *French* King and the Earl of *Flanders*; therefore Commiſsioners were appointed by both Princes to hear and decide them. And thoſe at that time on the behalf of the King of *England* were *Robert* **de Burgherſhe** Conſtable of *Dover* Caſtle, and *John* **de Banquell** Steward of *Pontoiſe*, *Baraldus de* **Selcas**, and *Arnaldus* **Ayquein** Knights; on the French King's behalf were appointed the Lord *Saquilly*, *Mittonius Blanvillius*, *Bertrandus Jordanus*, and *Gulielmus Ralaſtanſius*, Knights alſo: To the end that they might take cogniſance (ſo it is in the King of *England*'s Commiſſion) *des enterpriſes, meſpriſes, & forfaites en Treve ou en Sufferance, entre nos & le dit Roy de France, d'un part & d'autre, es coſteres de la mer d'Engleterre & autres per deca & auſint per devers Normandie & autres coſteres de la mer per de la*; that is, *of encroachments, injuries and offences committed on either ſide in time either of the League or Sufferance*, or, *of the Truce agreed on between Us and the ſaid King of* France, *for freedom of Commerce onely, either upon the Sea-Coaſts of* England, *or any other neighboring Coaſts of the Sea, either towards* Normandie, *or others more remote.* But the aforeſaid parties were autoriſed by two Commiſsions, in ſuch manner, that the one Commiſsion contained four, and the other alſo four, an equal number beeing appointed by both the Kings. They both bear date the laſt day of *June*, MCCCIII. To theſe Commiſsioners or others of that kinde, the *Libel* was jointly exhibited by Procurators, on the behalf of the Prelates

[d] *Rot. Pat. 31 Ed. 1. membr. 16. ult. Junii.*

lates and Peers of *England*, alſo of the high Admiral of *England*, yea, and of the Cities and Towns throughout *England*; and laſtly, of the whole Engliſh Nation, and others ſubject to the King of *England*; and how this could bee don otherwiſe than by autoritie of the Eſtates in Parlament, is not to bee imagined. With theſe in like manner were joined the Procurators of moſt Nations bordering upon the Sea throughout *Europe*, as the *Genoëſes*, *Catalonians*, *Spaniards*, *Almains*, *Zelanders*, *Hollanders*, *Frieſlanders*, *Danes*, *and Norwegians*, beſides others under the Dominion of the *Roman-German* Empire. All theſe together inſtituted an Action or Complaint againſt *Reyner Grimbald*, who beeing Governor of the French Navie, had, during the war between King *Philip* of *France*, and *Guie* Earl of *Flanders*, intercepted and ſpoiled Merchants of their Goods in this Sea, that were bound for *Flanders*. And all theſe *Complainants* jointly ſay, that the King of *England* and his Predeceſſors, have time out of minde, without controverſie, *enjoied the Soveraigntie and Dominion of the Engliſh Sea, and the Iſles of the ſame, by right of their Realm of England, that is to ſay, by preſcribing Laws, Statutes, and Prohibitions of Arms, and of Ships otherwiſe furniſhed than with ſuch neceſſaries as belong to Merchants, and by demanding ſuretie, and affording protection in all places where need ſhould require, and ordering all other things neceſſarie for the conſervation of Peace, Right and Equitie, between all ſorts of people paſſing through that Sea, as well Strangers, as others, in ſubjection to the Crown of* England. *Alſo, that they have had, and have the Soveraign Guard thereof, with all manner of Coniſance and Juriſdiction in doing Right and Juſtice, according to the ſaid Laws, Statutes, Ordinances, and Prohibitions, and in all other matters, which may concern the exerciſe of Soveraign Dominion in the ſaid places.* To wit, ſuch matters as concern'd the

office

office and juriſdiction of the Admirals, that were wont to bee appointed by the Kings of *England*. Then, adding the firſt Article afore-mentioned of the League made but a little before, whereby both Kings were obliged to defend one another's right, they proceed in their Accuſation againſt *Grimbald*, ſaying; *That hee is only Maſter of the Navie of the King of* France; *but call's himſelf Admiral of the ſaid Sea; and pretend's that hee was autoriſed under that title by the King of* France, *upon occaſion of his making warr againſt the* Flemings. *And that after the making of the ſaid League, and contrarie to the in'ent and meaning of the ſame, hee had for above a years time unjuſtly aſſumed a d uſurp:d the office of Admiral in the ſaid Sea, by autoritie of the King of* France *his Commiſſion; taking the People and Merchants of* England, *and other Nations paſſing through that Sea, impriſoning and ſpoiling them of their Goods, and delivering them up to the King's Officers, as Goods forfeited and confiſcate. And whereas hee hath in a very inſolent manner juſtified theſe actions of his in writing, as don by autoritie of the King his Maſter's Commiſſion, as alſo according to a Prohibition made by the King of* England, *and proclaimed, according to the intent of the aforeſaid third Article of the Treatie, throughout his Dominions,* (that is to ſay, a *Prohibition* which forbade a giving any relief to the *French* King's enemies within the Dominion of the King of *England*) *and ſo endeavored to defend himſelf before the Commiſſioners*; it was alleged to bee don to the great damage and prejudice both of the King of *England*, and of the Prelates, Peers, and all the reſt, who jointly preferr'd the *Bill*, as aforeſaid. Therefore they all with one conſent pray, that the perſons ſo impriſoned beeing ſet at libertie, and reſtitution made of the Goods injuriouſly taken, they might bee referred to the Juriſdiction of the Admiral of *England* (to whom alone this kinde of Juriſdiction, both

in reſpect of Things and Place, as well as Perſons, did appertein) and that, by order of the Commiſsioners; *Reyner Grimbald* himſelf might bee enjoined to repair the loſſes of the *Complainants*, in caſe hee were able to make ſatisfaction; or otherwiſe, that the King of *France*. who gave him Commiſsion for that Command, might bee adjudged to do the ſame. But after reparation made, that then alſo the ſaid *Reyner* might receiv ſuch puniſhment for violating the League, as might deter others from the like attempt in time to com.

Now what was don by the *Commiſsioners*, is not very well known: It ſeem's it was a matter of ſuch moment, that it was thought more convenient to make an end by agreement, than bring the matter to a trial. But in the mean time, nothing is more evident, than that a right of Dominion over the Sea, and that antient and confirmed by long Preſcription, was in expreſs terms here acknowledged by almoſt all the Neighbor-Nations, to belong to the King of *England*; and ſo, that hee might, at his own pleaſure, give protection, and ſet Laws and Limits to all that ſailed through this Sea, and uſed it in any manner whatſoêver; nor could this kinde of Right bee altered or diminiſhed by the differences of the Neighbor-Nations between each other, or by any Right of war belonging to others, otherwiſe than in any other Territorie of his Dominion. And it is to bee obſerved, that the *Flemings* themſelvs, betwixt whom and the *French* there was a war on foot at that time, were not, nor could they rightly have been parties in that Charge or Accuſation: For, by virtue of the aforeſaid League made between the *Engliſh* and *French*, they were to aſsiſt one another by Arms to defend each other's Rights; ſo that according to the League, the *French* King was permitted to uſe the Sea,

to

to infest the *Flemings* beeing his enemies, but not to intercept such as passed this way from any other Nations, or that were bound with Merchandise for *Flanders*. And *Paulus* [c] *Æmilius*, speaking of this very time, saith; *The French King threatned ruine to* Flanders. *The King of* England *protected the* Flemings. For, Edward *was so far onely a friend of the King of* France, *that yet hee would not have the* Flemings *ruined*. Thus our King order'd the matter, both as a Defender of his own Right, and supreme Moderator also of Navigation in respect of others. Nor truly is it to bee omitted, that *Grimbald* himself here, beeing Governor of the French Navie, did not onely arrogate this power in this Sea from the Autoritie granted him by his King's Commission, but in expres's terms also made use of that *Prohibition* of the King of *England*, which was in force according to the Third Article of the said League, thereby to defend himself; as if hee had also acknowledged, that himself could not have lawfully held that office of Admiraltie in this Sea, without such a Permission as hee conceived himself to enjoy, by virtue of that *Prohibition*. For, by that *Prohibition*, it was required that no relief should bee given to the French King's Enemies, nor any aid afforded them within the Dominion of the King of *England*, (that is, *per my son poere*, which were the very words of *Grimbald*, as you may see in the *Libel* it self set down hereafter.) And so *Grimbald* expressly objected the Autoritie of that *Prohibition*, together with the power of his Master's Commission in defence of himself: As if hee had said, I use this power, it beeing given mee by the King of *France*, who put mee in Command over his Navie, and Affairs belonging to the Sea: But besides this, the King of *England* having set forth his *Prohibition*, commanded that no kinde of relief should

[c] *De gestis Franc. li. 8.*

bee given to any Enemie of the French, within his Dominion, according to the League made between both the Kings. And therefore, seeing I have not taken either the Persons or Goods of any but such as are Enemies, or at least such as according to the *Intervenient Law* of Nations, are to bee reckoned upon an hostile Account (for, doubtless hee pretended, that they were to bee taken as Enemies of what Nation soëver they were, who relieved the *Flemings* by Merchandise or otherwise) I conceiv it a sufficient ground of defence in my behalf, that the King of *England*, according to the League made, did by publick Proclamation require, that no succor or relief should bee given to the Enemies of *France* in any part of his Dominion. Upon which account, not to these, whom I took at Sea. The summe of all in brief is this; That *Grimbald* did not so much as imagine, that his office of Admiraltie or Power given him by Commission depended upon any Dominion of the King of *France* by Sea, but altogether upon the Autoritie of his Kings Commission, the League, and the King of *England's* Prohibition: As if the English King had openly declared by that *League* and *Prohibition*, that hee would not take it for any injurie to himself, during that kinde of League and Prohibition, although the *French* should fall upon any of their Enemies in his Dominion, or though they, which is all one here, should bee taken in his Sea, by the French King's Officers. Certainly, unless you so understand *Grimbald*, I do not see wherefore he should at all join that *Prohibition* together with the King his Master's Commission, in defence of himself, as it is expressed in the *Libel*, or why mention was made there of the Dominion of the King of *England*, throughout which that *Prohibition* was proclaimed, seeing the con-

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troverſie aroſe touching things don onely by Sea. But if hee bee ſo to bee underſtood, certainly then hee did not onely forbear to oppoſe the antient right of the King of *England* by Sea, but alſo ſufficiently acknowledged it, while hee ſeem's to affirm that a temporarie reſtriction onely was added thereto, by an acceſſion of the *League* and the *Prohibition*: So that wee have a tacit acknowledgment even of the French themſelvs at that time, in this their *Admiral*. But how the principal points of the League ought to bee expounded, it is no place here to diſcourſ; for, wee obſerv onely that the Sea-Dominion of the Kings of *England* was acknowledged, in that *Libel*, by ſo many Nations.

Moreover truly, it is worthie obſervation; that about the very ſame time, to wit, a little before the making of the League, the King of *England* did homage to the French King for the Dutchie of [f] *Aquitain*, the Earldom of *Pontoiſ*, and other Provinces that hee held in *France*; that hee was alſo wholly deprived of them ſom time before by decree of the Parlament of [g] *Paris*; yea, and that about one hundred years before, King *John* was outed of *Normandie*; and yet afterward that the King of *England* now and then regained a poſſeſsion of it, and that before the time of the League, and of the publication of this *Libel*; which ſerv all to this end, that wee may obſerv, that when the aforeſaid famous controverſie aroſe about the uſe and Soveraigntie of the Sea flowing between *France* and *Britain*, and the abſolute Dominion thereof was aſſcribed by ſo many Nations, upon a Title derived time out of minde, to the King of *England* and his Predeceſſors, yet in the mean time no title at all was pretended in right to their poſſeſsion either of *Normandie*, or *Aquitain*, whereupon a Dominion of any part of the Sea might in any

[f] *Rot. Alemann.* 30 & 31 *Ed.* 1. *Du Tillet en le recueil des Traictes, &c. fol.* 40 b.

[g] *Florilegus, ann.* 1293. 3. *Thomas Walſingham, ann.* 1294. *Alii.*

ſort bee grounded, but claimed upon the ſole right of the Engliſh Empire. And it appear's evident by the thing it ſelf, that the things complained of by thoſe Nations in the *Libel*, were don by that Governor of the French Navie, chiefly in the Sea near the ſhores of *France* and *Flanders*, which were in hoſtilitie with each other: And ſo certainly they all unanimouſly affirm, that the whole Sea, whereof they ſpeak, is under the Dominion of the King of *England*, and that upon the ſole Account and right of the Engliſh Empire. And as for *Grimbald*, hee did not defend himſelf, either by a pretence of any Dominion of the King of *France*, or by diſproving of that Preſcription; whereupon the Engliſh Title depend's, as a thing not declared according to Truth or antient Right; nor did hee at all pretend, that the Right which the Kings of *England* had in the Sea bordering upon *France*, did belong to them either upon the account of *Normandie*, or any other French Province whatſoêver, as Fiduciarie Clients or Vaſſals of the King of *France*, though it had been convenient and very ſeaſonable for him to have alleged all theſe Particulars, if the Truth had been ſo indeed. Whereby alſo that is not a little confirmed, whereof wee diſcourſed before, about taking the names of the ſhore over againſt us, in the later Commiſsions of the Office of high Admiral of *England*, for limits onely of the Sea-Dominion of the Kings of *England*, and of the Province thereof under their protection. Moreover alſo, about ſeven years before the exhibiting of the aforeſaid *Libel* to the Commiſsioners, when as the King of *France*, by reaſon of divers heinous injuries don to his Subjects by the Engliſh in this Sea, required that the King of *England* (as

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hee was the Fiduciarie Client or Vassal, becaus of *Aquitain* and other Provinces that hee held under him in *France*) should bee questioned not onely for wrong don, but also for his right to those Lands which hee held, and bee summoned to appear in the Parlament of *Paris*; the matter beeing set down at large in the Letter of Summons, hee inserted nothing therein whereby hee might seem to arrogate any Sea-Dominion at all to himself, or diminish that which belong'd to the King of *England*; as you may see in [h] *Florilegus*, who hath set down an entire Copie of them in his Annals. The same Autor also, speaking of the same Time, saith, [i] *At that time, there was neither Lord, nor Law over the Sea men; but what every man was able to catch, or snatch, hee called his own*; which plainly denotes an extraordinarie Licence or of Depredation, and infesting the Sea; yet so to bee understood, that in the mean time the incomparable power of the English in Shipping, which guarded their Dominion by Sea according to the Custom of their Ancestors, was chiefly signified thereby; the King very freely permitting his Subjects to use depredations by Sea, as long as the war continued. For, *Florilegus* himself relates, that great numbers both of *French* and *Spaniards*, were then taken at Sea by the *English*. Yea, and about [k] that time, *Thomas* of *Walsingham* writes, that either a *French* or *Norman* Navie of two hundred Sail, which roved about this Sea to rob the English, were overcom by a Fleet of sixtie English Ships, and brought into *England*. There is also another *antient Autor* of the same time, when these affairs were acted, who saith, [l] *That in the Month of May*, MCCXCIV. *there fell out a Quarrel between the Sea-men of the Cinque-Ports of* England, *and the Sea-men of* France, *and it was determined*

[h] *Anno* 1293.

[i] *Anno* 1294.

[k] *Anno* 1297

[l] *Ms.*

determined by a fight at Sea, wherein the Engliſh *with a Fleet of one hundred Sail, took two hundred Ships of* France, *and drowned or killed almoſt all the Sea-men of* France, *for which cauſe* Philip *King of* France, *endeavored to take away Gaſcoign from the King of* England. Others there are likewiſe, that have other expreſsions touching theſe things, whereby it is eaſie to collect what is meant by that of *Florilegus*, when hee ſaith, *that there was neither Lord, nor Law, over Sea-men, at that time*; that is to ſay, the King of *England* had let the reins looſe to his Subjects, as Moderator of this Sea, and this hee did, that they might not onely reſtrain his enemies, but them alſo that ſhould reliev his enemies in any manner whatſoêver, or that ſhould uſe the Sea otherwiſe than at his pleaſure, who was Lord thereof. But as concerning the like acknowledgment, made ſingly and apart by the *Flemings*, of the Dominion of the Kings of *England* over the Sea, I ſhall Treat by and by; after that I have in the next place ſet before you the *Libel* it ſelf in its own, that is, the *Norman* Tongue, as it ſtand's recorded in the Tower of *London*.

A Copie, *or* Tranſcript *of the* Libel *or* Bill of Complaint, *mentioned in the former Chapter.*

CHAP. XXVIII.

IN the Archives of the Tower of *London*, where Records of above four hundred years are kept, there is a bundle of Parchments, which contein ſom affairs relating to the times of *Henrie* the Third, and of *Edward* the Firſt and Third. The firſt contein's an agreement made between *Edward* the Firſt and *Guy* Earl of *Flanders*, touching their Ships bearing of Colors about this Sea, to the end that they might bee the more eaſily known. Then there are annexed three either Originals or Copies of the ſaid *Libel* written at the ſame time. For (as it ſeem's) the ſeveral Procurators of thoſe Nations, that were parties in the Complaint, had their ſeveral *Libels*, though expreſſed in the name of all together. So that one is endorſed thus, *De Baiona*, as if that *Libel* had been exhibited ſingly by the men of *Bayonne*; but the title run's thus, *De Superioritate Maris Angliæ, & Jure Officii Admirallatûs in eodem*, that is, **Of the Superioritie** (or Soveraigntie) **of the Sea of** England **and the right of the Office of Admiraltie in the ſame,** as it is alſo in the ſaid agreement between the King and the Earl of *Flanders*. Alſo, in one of the *Libels*, to thoſe words is added *retinendis & confirmandis*; All beeing very plainly written in the uſual Character of that Age, whereunto the matter relate's. And there can bee no ſcruple touching the realitie and truth of them to any one that

ſeeth them, who is but a little acquainted with the antient writing and ſuch kinde of Records. I gave you the whole ſenſ, yea and partly the words before; but now have thought fit to ſet down an entire Copie of the *Libel*, as it was written at that time in the *French* or *Norman* Tongue; which run's after this manner.

A vous, Seigneurs, Auditours Deputez per les Rois d' Engleterre & de France, a redreſſer les dammages faits as gentz de lour Roiaulmes & des altres terres ſubgitz a leur ſeignuries, per mier & per terre, en temps de Pees & Trewes, monſtrent les Procurors des Prælatz et Nobles, & del Admiral de la mier d' Engleterre, & des Comminalties des Citties, & des Villes, & des Marchaunz, Mariners, Meſſagiers, & Peleringes, & de tous autres du dit Roiaulme d' Engleterre & des autres terres ſubgits a la ſegnurie du dit Roy d' Engletterre & d' aillours, ſi comme de la Marine de Genue, Cateloigne, Eſpaigne, Alemaigne, Seland, Hoyland, Friſe, Denemarch, & Norway, & de pluſours autres lieux del Empire, *que come* LES ROYES D' ENGLETERRE PAR RAISON DU DIT ROYALME, DU TEMPS D' ONT IL NY AD MEMOIRE D DU CONTRARIE, EUSSENT ES-

ESTE EN PAISIBLE POSSESSION DE LA SOVVEREIGNE SEIGNURIE DE LA MIER D' ENGLETERRE ET DES ISLES ESTEAUNS EN YCELLE, *par ordinance & eſtabliſement des lois, eſtatutes, & defenſes d' armes, & des veſſeaux autrement garnies que veſſeaux de Marchandiſe, et de ſeurté prendre et ſavegarde doner en tous cas que meſtier ſerra, et par ordinance de tous autres faits neceſſaries a la garde des pees, droiture, et equite entre toute manere des gentz taunt d' autre ſeignurie come leur propre par illeque's paſſanz, et par ſoveraigne guarde et tote manere de coniſance et Juſtice haute et baſſe ſur les dites lois, eſtatuts, ordinances et defenſes et par toutz aultres faitz queux à le governement de ſoveraigne ſeignurie appertenir purront es lieux avant ditz.* Et *A. de B. Admirall de la dite mire deputez per le Roy de* Engleterre, *et touz les autres Admiralls per meiſme celui Roy d' Angleterre et ſes Aunceſtres jadis Rois d'* Engleterre, *euſſent eſte in paiſible poſſeßion de la dite ſoverein garde ove la coniſance et Juſtice et toutz les aultres apertenances avantdites (forſpris en cas d' appell et de querele fait de eux à lour ſovereigns Roys d'*

Engleterre de deffault de droit, ou de malvais juggement) et eſpecialment par empechement metere, et Juſtice faire, ſeurte prendre de la pees de toute manere des gentz uſaunts armes en la dite mier, uo menans niefs aultrement apparallez ou garniez que n' appartenoit au nief Marchande, et en toutz aultres points en queux home peut aver reaſonable cauſe de ſuſpection vers eaux de robberie ou des autres mesfaits. Et come les Maiſtres des Neifs du dit Royalme d' Engleterre, en abſence des dits Admiralls, euſſent eſte en paiſible poſſeſſion de conuſtre et jugger des touz faicts en la dite mire entre toute manere des gentz ſolonc les lois eſtatuts et les defenſes et Cuſtumes. Et come en le pimier article de l' Alliance nadgairs faite entre les dits Roys, en les traitz ſur la darrain pees de Paris, ſoient compriſes les paroles que ſ'enſujent en un cedule annexe à yceſte (At non in ſchedulâ annexâ, ſed in eâdem membranâ deſcriptum eſt quod ſequitur; unde non tam ipſos libellos, qui cognitoribus edebantur, quàm ſive formulas eorum archetypas ſive exemplaria deſcripta hæc eſſe conjiciendum fortè eſt; utì etiam ex eo quòd Admiralli Angliæ nomen aliter ac per A. de B. non inferatur; quæ prima elementa non

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sunt nominis alicujus tunc temporis Angliæ Admiralli in sacris Scriniis reperti) *Primierement il est traict & accord entre nous & les messagers & les procurers susdits, en nom des dits Roys, que iceux Roys serront l'un à l'autre, desores enavant, bons, vrayes, & loyaux amys, & eydans contre tout home (sauve l' Esglise de Rome) en tiele manner que si ascun ou plusieurs quicunques ils fuissent voloient depointier, empescher, ou troubler les dits royes es franchises, es liberties, privileges, es drois, es droitures, eu es custumes de eux & de leur royalmes q'ils seront bons & loyaux amys & aydans contre tout home que puisse viure & morir à defendre gardir & maintenir les franchises, les liberties, les privileges, les droitures, et les custumes desusdites; Except pur le dit Roy d' Angletterre, Monsieur Johan Duc de Braban en Brabant, et ses heirs dessendans de lui et de la fille le roy d' Angleterre, et excepte, pur le dite nostre seigneur le roy de France l' excellent Prince Monsiur Aubert Roy d'Alemaigne et ces heirs royes d' Alemaine, et Monsieur Johan Count de Henau en Henau. Et que l'un ne serra en consail ne en aide ou l' autre perde vie, membre, estate ou honor; Monsieur Reyner Grimbaltz Maistre de la Navie du dit Roy de*

France, que se dit estre Admiral de la dite Mier deputez per son seignure avantdit per sa guerre contre les Flemminges, apres la dite alliance faite et affirmee, contre la forme et fource de mesme alliance et l'entencion de ceaux que la firent, l'office de Admiraulte en la dite Mier d' Engleterre, per commission du dit Roy de France, torcenousement empriſt et usa un an et pluis, en prenant les gentz et marchaunts du Royaulme d' Engleterre et daillours per la dite mier passaunts oveſque lour biens, et les gens ainſi priſes livere à la priſon de ſon dit Seignur le Roy de France, et leur biens et Marchandiſes à les Reſceivors per meſme celui Roy de France à ceo deputez en les ports de ſon dit Royalme come à lui forfaits et acquiſes, fiſt ameſner per ſon juggement et agard, et la priſe et detenue des dits gents ove leur dits biens et marchandiſes, et ſon dit juggement et agard ſur la forfait de eaux et acqueſt, ait juſtifie devant vos, Seignours Auditours, en eſcripts par my l' autorite de ſa dite commiſſion ſur l' Admiraulte avantdite, per lui auſſi uſurpee, et per my un defence communement faite per le Roy d' Engleterre per my ſon poere (ſolonc la forme de la tiers article de l' Alliance avant dite, que content

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les paroles desussecripts) en requerant que de ceo il en fuisse quitz & absolutz, en grand damage & prejudice du dit Roy d'Engleterre & des Prelatz & Nobles & anltres dessussnomes, per quoi les dites procureurs en les nounes de leur ditz Seigneurs, à vous Seigneurs Auditors avantdits, prient que deliverance deune & hastive des dits gents, oveſque leur biens & marchandises ainsi prises & deteinues faites estre faite al Admiral du dit Roy d'Angleterre à qi la conisance de ceo appartient de droit, si come dessus est dist, ainsi q'il saunz destorbance de vous & d' altri puisse de ceo conustre & faire ceo que appertient à son office avant dit, & que le dit Monsieur Reyner soit condemne & destreint à faire deuue satisfaction à tous le dits damages si avant come il purra suffre, & in sa defaulte son dit seigneur le Roy de France, per qi il estoit deputez al dit office, et que apres deuue satisfaction faite as dites damages le dit Monsieur Reyner soit si duement puniz pur le blemissement de la dite alliance que la punicion de lui soit as aultres example pur temps avenir.

In

In *English* it run's thus:

* *Or Commissioners.*

To you, our Lords, * Auditors deputed by the Kings of *England* and *France*, to redress the wrongs don to the People of their Kingdoms, and of other Territories subject to their Dominion, by Sea and by Land, in time of Peace and Truce.

The Procurators of the Prelates, Nobles, and of the Admiral of the Sea of England, **and of the Commonalties of Cities and Towns, and of the Merchants, Mariners, Messengers, Inhabitant strangers, and all others belonging to the said Realm of** England, **and the other Territories subject to the Dominion of the said King of** England, **and of others under the Jurisdiction of the same; As also of divers other Nations, Inhabitants of the Sea-Coasts of** Genoa, Catalonia, Spain, Almaign, Zeland, Holland, Friesland, Denmark, **and** Norway, **and of divers other places of the Empire, do declare; That Whereas** THE KINGS OF ENGLAND, By Right OF THE SAID KINGDOM, FROM TIME TO TIME, WHEREOF THERE IS NO MEMORIAL TO THE CONTRARY, HAVE BEEN IN PEACEABLE POSSESSION OF THE SOVERAIGN LORDSHIP OF THE SEA OF ENGLAND, AND OF THE ISLES WITHIN THE SAME, **with power of making and establishing Laws, Statutes, and Prohibitions**

hibitions of Arms, and of Ships otherwise furnished than Merchant-men use to bee, and of taking suretie and affording safeguard in all cases where need shall require, and of ordering all other things necessarie for the mainteining of Peace, Right, and Equitie among all manner of people, as well of other Dominions as their own, passing through the said Seas, and the Soveraign Guard thereof: And also of taking all manner of Cognisance in Causes, and of doing right and Justice, to high and low, according to the said Laws, Statutes, Ordinances, and Prohibitions, and all other things which may appertein to the exercises of Soveraign Jurisdiction in the places aforesaid. And whereas A. de B. deputed Admiral of the said Sea by the King of England, and all other Admirals appointed by the said King of England, and his Ancestors heretofore Kings of England, have been in peaceable possession of the said Soveraign Guard, with power of Jurisdiction, & other the aforesaid appurtenances (except in case of appeal, and complaint made of them to their Soveraigns the Kings of England, in default of Justice, or for evil Judgment) and especially of making Prohibitions, doing Justice, and taking surety of the peace of all manner of people using arms in the said Sea, or carrying Ships otherwise furnished and set forth than Merchantmen use to bee; and in all other points where a man may have reasonable cause to suspect them of Robbery or other Misdemeanors. And whereas the Masters of the Ships of the said kingdom of England, in the absence of the said Admiral, have been in

peaceable poſſeſſion of taking cogniſance and judging of all Actions don in the ſaid Sea, between all manner of people, according to the Laws, Statutes, Prohibitions and Cuſtoms. And whereas in the firſt Article of the League lately made between the ſaid Kings, in the Treatie upon the laſt peace at Paris, there are compriſed the words here following, in a Schedule annexed to theſe Preſents. (but that which follow's is not written in a Schedule annexed, but in the ſame Parchment; from whence it may perhaps bee conjectured, that theſe are not ſo much the very *Libels* themſelvs, which were exhibited to the Commiſsioners or Auditors, as antient Copies taken from the Original; as alſo from this, that the name of the Admiral is ſet down A. *de* B. which two firſt Letters do not agree with the name of any one that wee can finde in Record, to have been Admiral of *England* at that time.) First, it is concluded and accorded between Us and the Agents and Procurators afore ſaid, in the names of the ſaid Kings; that the ſaid Kings ſhall from this time forward, becom to each other good, true, and faithful friends, and bee aiding to one another againſt all men (ſaving the Church of Rome) in ſuch manner, that if any one or more, whoſoëver they bee, ſhall intend to diſturb, hinder, or moleſt the ſaid Kings, in the Franchiſes, Liberties, Privileges, Rights, and Cuſtoms of them and their Kingdoms, They ſhall bee good and faithful friends to each other, and aiding againſt all men living, and readie to die, to defend, keep and maintein the Franchiſes, Liberties, Privileges Rights, and Cuſtoms afore ſaid; Except on the behalf

behalf of the said King of England John Duke of Brabant in Brabant, and his heirs descending from him and the daughter of the King of England; and except on the behalf of our Lord the said King of France, the excellent Prince Monsieur Albert King of Almaign, and his heirs Kings of Almaign, and Monsieur John Earl of Henault in Henault; and that the one shall not bee of Counsel, nor aiding, where the other may lose life, member, estate, or honor.

Monsieur Reyner Grimbald, Master of the Navie of the said King of France, who call's himself Admiral of the said Sea, beeing deputed by his aforesaid Lord, in his War against the Flemings, did, after the said League made and confirmed, against the tenor and obligation of the said League, and the intent of them that made it, Wrongfully assume and exercise the office of Admiraltie in the said Sea of England, above the space of a year, by Commission of the said King of France, taking the people and Merchants of the kingdom of England, and of other places, passing through the said Sea with their Goods, and committed them so taken to the prison of his said Lord the King of France, and delibered their Goods and Merchandises to the Receivers of the said King of France by him deputed in the Ports of his said kingdom, as forfeited and due unto him, to remain at his Judgment and award. And the taking and deteining of the said people with their said goods, as also his said Judgment & award, for the forfeiture & acquest of them, he hath justified before you, Lords, Auditors, in Writing, by virtue of the autoritie of his said Commission of Admiraltie afore-

said, by him usurped after this manner, and during a Prohibition or Restraint generally made and proclaimed by the King of England, in right of his Dominion (according to the tenor of the third Article of the League aforesaid, which contains the words above-written) requiring that hee may thereupon bee acquitted and discharged of the same, to the great damage and prejudice of the said king of England, and of the Prelates & Nobles, & others above-mentioned.

Wherefore, the said Procurators, in the names of their said Lords, do pray your Lordships Auditors, that you would cause due and speedie deliverance of the said people, with their Goods and Merchandises so taken and detained, to bee made to the Admiral of the said king of England, to whom the cognisance of the same of right appertaineth, as is before expressed; So that, without disturbance from you or any other, hee may take cognisance thereof, and do what belongs to his office aforesaid; And the said Monsieur Reyner bee condemned and constrained to make satisfaction for all the said damages, so far forth as hee shall bee able, and in his default his said Lord the King of France, by whom hee was deputed to the said office; and that after satisfaction given for the said damages, the said Monsieur Reyner may bee so duly punished for the violation of the said League, that his punishment may be an example to others in time to com.

So far the *Libel* of so many Nations, manifestly acknowledging the Soveraigntie and Dominion of our Kings over the Sea, and thereupon demanding protection for themselvs. And whereas no mention is made of this thing in the Histories either of the *French*, *English*, or others

others, it is no wonder ſince the proceedings of Courts of Judicature are very ſeldom ſet down in Hiſtories. But wee underſtand by the French Hiſtorie, that this *Grimbald* was Governor of the French Navie at the very ſame time. *Paulus Æmilius* writing of *Philip* the Fair, ſaith, [a] *Hee hired ſixteen Gallies from* Genoa, *over which* Reyner Grimbald *was Governor or Commander. Hee ſailing about by Sea, infeſted the* Sea-*Coaſt of* Flanders. Regimerus, Reginerus, or *Reynerus Grimbaldus*, is one and the ſame man; and among the *Genoëſes*, there is an eminent Family of that name: But becauſ hee was a Foreiner and Mercenarie, therefore (it ſeem's) *Joannes Feronius* left him out of the Catalogue of the Admirals of *France*; yet [b] *Joannes Tilius* placing him among the Governors of the French Navie, call's him *Roverius Grimaldus*. Hee alſo is that Admiral of the King of *France*, who, as *Joannes de* [c] *Beka* ſaith, had command of three hundred and fiftie Gallies, that were ſent by *Philip* the Fair, in the year MCCCIV. to aid the *Hollanders* againſt the *Flemings*. There are alſo ſeveral particulars in the Records of *France*, which relate to the differences then on foot between the *Engliſh* and *French*: And although that Libel or any Copie of it bee not found therein (if wee may credit *Tilius*, who ſet forth a Catalogue of that kinde of Records) yet there is that Commiſsion among them, whereby the aforeſaid *Auditors* or *Commiſsioners* were autoriſed to determine of things don contrary to the League. It is deſcribed by [d] *Tilius* after this manner; *Pouvoir donè par le Roy Edovard à deux nommez & accordez de ſa part pour avec les deux eleuz de la part du dit Roy* (Phelippe) *d'enquerir & amendir les forfaictes durant lour trefue, le Dernier Juin* MCCCIII. *Ou treſor; layette Procurationes, poſſe, & poteſtates Angliæ*; K. **Power was given by king**

[a] *De Geſtis Francorum, lib. 8.*

[b] *De rebus Gallicis, li. 2.*

[c] *Chronic. Epiſcop. Ultrajecti. & Comit. Holland. pag. 93.*

[d] *Recueil des Traictes, &c. fol. 40.*

Edward **to two persons named and appointed on his part, to meet with two persons chosen on the behalf of the said king** (Philip) **to make enquiry and give remedy touching Injuries committed during the Truce betwixt them the last of June** MCCCIII. **in the Treasury; in the Box intituled,** *Procurationes, posse, & potestatess Angliæ*; *K.* The Commissions bear date the same day and year; whereby these *Auditors* or *Commissioners* were appointed for this purpose, as wee observed before out of our own Records. Nor is it of any force here to the contrarie, that *Commissioners* were sometimes [a] deputed in the same manner by the Princes of the shores on both sides of the Sea, as also by the aforesaid Kings, to determine complaints about robberies and other injuries usually don by private persons to one another by Sea and Land. For, if any one will collect thence, that the Princes which deputed them had both an equal right in the Sea, it may as well bee concluded upon the same ground, that they were but part-owners of their own Countries, and had an equal interest in each other's Land. Besides, in such a kinde of deputation as that, there is more regard had of the persons offending, that are to bee tried, than of the Dominion of Territories; which truly is wholly to bee discovered som other way.

[a] *Rot. Claus. 24 Ed. 3. par. 1. membran. 25. dors. Rot. Franciæ, 10 Hen. 8. &c.*

A Recognition *or acknowledgment of the Sea-Dominion of the Kings of* England, *made by the* Flemings *in an* Ambassy *to* Edward *the* Second.

CHAP. XXIX.

TO these let us add now the assent and voluntarie acknowledgment of the *Flemings* in the Parlament of *England*, in the Reign of *Edward* the Second. When as the Ambassadors of *Robert* Earl of *Flanders* complained of the taking of their Goods away at Sea, imploring remedie of the King of *England*, they said more than once that they were taken upon the English Sea towards the parts about **Crauden**, within the power of the King of *England*, and brought into *England*; but that it appertained to the King of *England* to take cognisance of the crime, *for that hee is Lord of the said Sea, and the aforesaid depredation was committed upon the aforesaid Sea within his Territorie and Jurisdiction*; which are the words of the Record; but I shall set down the [f] whole, so far as it relates to this business.

Memorandum, **That Whereas for the reformation of certain injuries in an amicable Way, don by the Subjects of the Earl of** Flanders, **to the Subjects of the Kingdom of** England, **and by the Subjects of the said Kingdom to those of** Flanders, **since the time that our said Lord the King undertook the Government of his kingdom, several Treaties had been held between the Council of our said Lord the King, and the Ambassadors of the said Earl often sent into** England

[f] *Rot. Pat. 14 Ed. 2. part. 2. Membran. 26. in dorso.*

England, upon the aforesaid occasion, which Treaties, by reason of som impediments that happened, did not attein the desired effect; at length in the Parlament of our said Lord the king, held at Westminster in octabis Sancti Michaëlis, in the fourtenth year of his Reign, there appeared certain Ambassadors of the said Earl, to treat about reforming the aforesaid injuries in the form aforesaid. And when as the said Ambassadors had bæn admitted by our said Lord the king to treat anew of this kinde of Iniuries, these Ambassadors, as other Ambassadors of the aforesaid Earl, in the aforesaid Treaties, did, among other particulars that they required, before all things make supplication; That the said Lord the king would at his own suit, by virtue of his Roial Autority, caus enquirie to bæ made, and do Justice, about a certain depredation lately made by the Subiects of England (as they said) upon the English Sea, of Wines and divers other Merchandises belonging to certain men of Flanders, towards the parts about CRAUDEN, within the Territorie and Jurisdiction of our said Lord the king; alleging that the aforesaid Wines and Merchandises taken from the said Flemings, were brought within the Realm and Jurisdiction of the said Lord the king, and that it belong'd to the king himself so to do, for that HEE IS LORD OF THE SAID SEA, and the aforesaid depredation was made upon the said Sea within his Territorie and Jurisdiction. In conclusion, after diligent consideration had of the Premisses in the same Parlament, With the Prelates, Earls, Barons, and other Pæers of

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the said Realm being there present, it was concluded upon their advice by the said Lord King, that, to preserv the benefit of Peace between the Subjects of England and Flanders, the said Lord King do by his Roial Autority cauſ enquirie to bee made about the Goods taken at that time upon the aforesaid English Sea towards the said place of CRAUDEN, and brought within the said Realm, in those places where the Malefactors went with the goods so taken to the said Land of England, and cauſ the same depredation to bee heard and determined according to Law and Reason, and that the Owners of the Ships who had a hand in the said depredation, and others, who knowingly received the said Offendors with the Goods so taken in Whole or in part, may bee charged and punished thereupon, as partakers, of the aforesaid depredation.

So far that *Record*. And Commissioners were appointed with power of Jurisdiction by the King's Commission, through most of the Maritim Counties, to make reparation of damages. But becauſ there are upon the shores over against us (especially those of *Zealand*, and there are also upon other neighboring shores) besides Inlets of Rivers, very many windings and turnings of the Sea flowing in, whereby the land is so interwoven up and down, that it cannot well bee but that the Sea also which flow's in, and oftentimes remove's Banks and make's Harbors there in the same manner almost as a River or Brook, must bee conteined under the same Jurisdiction, as an entire Bodie with the Land; therefore somtimes mention is made also of this kinde of Sea flowing in, as of a

Sea reckoned within the Juriſdiction & Current of the Sea of the oppoſite ſhores; as for example, *of the Sea Flanders*, or (às I finde it in ſom antient [b] Manuſcripts which ſeem to bee the Originals of certain Letters of King *Henrie* the Fift to the Earl of *Carolois*, and to the Governors of *Ypres*, *Gaunt*, and *Bruges*) *deins la Juriſdiction & l'eſtrem de la meer de Flandres*, *within the Juriſdiction and ſtream of the Sea of Flanders*, which is all one. For, ſetting aſide the Sea ſo flowing in or making an in-let or harbor before the oppoſite ſhore, all that which remain's, or the Sea flowing between thoſe oppoſite Countries and *England*, was ever eſteemed to bee of the Engliſh Dominion, according to what I have formerly ſhewn. So that a late Writer doubtleſs was in a dream, when, upon the repairing of the Dock at *Mardike*, hee write's, [c] *that hee ſaw the Empire of the Britiſh Sea reſtored to the King of Spain.* And ſo I have don with this point, touching the Declaration and acknowledgment of the Sea-Dominion of our Kings, made by thoſe Forein and Neighbor-Nations, who were moſt concerned in the Buſineſs.

[b] *Ms.* in Bibliothecâ Cottonianâ 3 *Hen.* 5.

[c] *Jacobus Chiffletius*, in Epiſtolâ Dedicatoriâ ad Comitem *de Olivares*, *Portui Iccio* præfixâ.

Of

Of the Dominion of the King of Great Britain in the Iriſh *and* Weſtern Sea, *conſider'd ſingly and apart by it ſelf.*

CHAP. XXX.

I have alreadie ſpoken in general, of the *Engliſh* or *Britiſh* Sea, which is a part of the Patrimonie of the Crown of *England*, but chiefly as it lie's either Eaſt or South. It reſt's now, that wee treat of the *Weſtern*, as alſo the *Scotiſh* and Northern, and in a word of the whole *Britiſh* Sea that remain's. It is evident to all, that part of the Weſtern Sea, lying before *England*, is underſtood as well in that *Libel* which was exhibited by ſo many Nations to the Commiſsioners deputed by the Kings of *England* and *France*, above three hundred and thirtie years ago, wherein wee ſo often read *le mer d' Angleterre* or **the ſea of England**, as in the King's Commiſsion before mentioned, wherein our Kings are expreſsly declared Lords of the *Engliſh Sea* on every ſide; and therefore I ſhall forbear to repeat what is [a] cited out of *Bracton*, about the *Eſſoyning* or excuſing of a man abſent in *Ireland*, and other things of that kinde alleged before, which make to this purpoſe. Moreover alſo, wee read everywhere, that all the Iſles in this neighboring Sea were called *Britiſh* (as wee obſerved at the beginning of this Book) juſt as if the narrow Seas flowing between, like Rivers or turnings of Rivers, did diſjoin thoſe Banks or Shores from great *Britain*; as

[a] *CAP.* 24.

*Ἀποῤῥῶγας.

* *Fragments* of the same. Whereby it appear's, that the narrow Seas themselvs with the Isles, even as Rivers with their Banks, are to bee reckoned a part of the *British* Territorie. And hereunto especially relate's also that expression in the *Libel* so often cited; to wit, that the Kings of *England* have ever been Lords both of the *English* Sea (or of the *British*, so far as it stretcheth before *England*) and also of the Isles situate therein, *par raison du Royalme d' Angleterre*, **by right of the Realm of England**. So that the *Isle of Man*, which (as *Giraldus Cambrensis* saith) stand's in this Sea, in the very midst betwixt the Northern Parts of *England* and *Ireland*, was (if I understand any thing) reckoned of old among the Land-Provinces of *England*, even as the Isle of *Wight*, *Lundie*, and others of that kinde. Nor doth it seem to bee understood otherwise by those men of antient time, who, upon occasion of a dispute, whether this Isle ought by right to bee taken for an appendant of *England* or *Ireland* beeing placed in the midst of the Sea flowing between, determined the controversie on this manner. They brought venemous serpents; and observing that the Isle did entertain and cherish them, as well as *England* and the rest of *great Britain*, but on the contrarie that *Ireland* destroied them, *it was concluded* (saith [b] *Giraldus Cambrensis*, who lived under *Henrie* the Second) *by the common censure of all, that it ought to bee ascribed unto England*. For, if they had so thought the Territorie either of *Ireland* or *England*, as it consisted of Land and Sea, to bee dis-joined from this *Isle of Man*, that they had conceived the Sea lying between, either common to all men, or by antient right subject to other than the Kings either of *Ireland* or *Britain*, they might seem to have raised a very ridiculous Controversie:

[b] *Topograph. Hiberniæ, dist.2.cap.15.*

verſie : For, I ſuppoſe, the Queſtion could bee no other, than touching the bounds of *England* or *great Britain*, and *Ireland*. But that a Queſtion about bounds may bee admitted between Owners that are Neighbors, where the Territories of both are not continual or contiguous, is beyond my underſtanding. It is well ſaid by [c] *Paulus*; that if a publick Thorowfare, or publick River intervene, which belong's to neither of the neighboring Owners, an Action cannot bee brought upon that Title of the Law, *Finium Regundorum*. And truly, after that *Quintus Fabius Labeo*, beeing [d] appointed Arbiter by the Senate betwixt the *Nolans* and *Neapolitans* about the bounds of a Field, had ſo craftily perſwaded both of them to retire backwards apart from each other, that a portion of the Field was left in the middle which hee adjudged to the people of *Rome*, there could not any Controverſie ariſe farther between them about the bounds of this Field; becauſ there ceaſed to bee any confine betwixt them: But if any Queſtion aroſe afterwards, they were both to contend with the people of *Rome*. Even ſo it is to bee conceived of that Queſtion, *to which of the two Countries the Iſle of Man ought by Right to bee aſcribed*; it ariſing chiefly upon this ground, becauſ it lay in the midſt between the Territories belonging to *Ireland* and *Britain*, and at the confine of both. For, by an Argument drawn from the nature of the very ſoil onely, without a civil conſideration of Dominion (though they would have here the very nature of the ſoil to bee the evidence thereof, as a Lot for deciſion) it ought no more to bee aſcribed either to *Britain* or *Ireland*, than to *Norway*, *Spain*, or *France*, where every man know's that venemous Creatures are bred as well as in *Britain*. Therefore, to bee aſcribed to *England* or *Britain* in that

[c] *L.* 4. § 11. *l.* 5. & 6. *ff. tit. Finium Regundorum.*

[d] *Cicero de Officiis, lib.* 1.

antient Deciſion, is, ſo immediately to bee annexed to the *Britiſh* Territorie, that the *Iſle of Man* may truly, and in a civil ſenſ, bee called a Land-Province of *England* or *Britain*, ſeeing the *Engliſh* Territorie is ſo continually extended as far as its Weſtern Coaſts; that which bend's Weſtward from the very Confine, beeing aſcribed to *Ireland*. And therefore Queen *Eliſabeth*'s Commiſsioners let fall thoſe words too unadviſedly in the [d] Treatie, held at *Bremen*, with the *Daniſh* Commiſsioners, about free Navigation and Fiſhing in the *Norwegian* Sea; *That the Kings of* England *never had prohibited Navigation, and Fiſhing in the Iriſh Sea between England and Ireland*; as if they would have had it proved from thence, that the *Dane* ought not to bee prohibited Fiſhing or Navigation between *Iſland* and *Norway*, becauſ neither were Lords of the Sea, but had poſſeſſed the Shores onely on both ſides by an equal Right. There were other particulars alſo no leſs raſhly ſpoken touching a communitie of the Sea, as wee obſerved before. Concerning Navigation and Fiſhing in the *Norwegian* Sea, I ſhall add more by and by. But as it was ill don of thoſe Commiſsioners in that Treatie to make uſe of an Argument drawn from a neceſſarie communitie of the Sea, ſo there is no truth in that which they let fall concerning the *Iriſh* Sea. For, wee know, that not onely thoſe pettie Potentates bordering near the Sea heretofore, that were in Rebellion and had uſurped the Kings Right in many places of *Ireland*, did exact grievous Tributes of Foreiners for the very libertie of Fiſhing; but alſo it was expreſsly provided by Act of [e] Parlament, that no Foreiner ſhould Fiſh in the *Iriſh* Sea, without leav firſt obteined to this purpoſe from the Lord Lievtenant, or ſom other lawful Deputie or Officer of the King of *England*; yea, and that all

[d] 1602. *apud G. Camden. in Annalib. tom. 2. pag. 273. Edit. Lond.*

[e] *Stat. Hibernic. 5. Ed. 4. cap. 6.*

all Foreiners ſhould pay yearly, for every Fiſher-boat of XII Tons or upward, *thirteen ſhillings and four pence*, and for everie leſſer Veſſel *two ſhillings*; upon pain of forfeiting their Veſſels, Furniture, and all Goods whatſoëver, if ſo they refuſed this kinde of paiment or did not acknowledg this Soveraigntie of the Lord of the Sea. But I ſhall inſert the whole Act touching this buſineſs, that wee may underſtand what was the moſt received Opinion of all the Eſtates of *Ireland*, touching this Right here of the King.

Item, at the requeſte of the Commons, that where divers veſſells of other landes fro one daie to other goynge to fiſh amongſt the Kings Iriſh enemies in divers partes of this ſayd land by which the Kings ſaid enemies bee greatlye advanced and ſtrengthened alſwell in victualles, harneys, armor, as dyvers others neceſſaries, alſo great tributes of money given by every of the ſaid veſſells to the ſaid enemies from day to day to the great augmentation of their power and force againſt the King's honor and Wealth, and utter diſtruction of this ſaid land, thereupon the premiſſes conſidered, it is enacted and ordeined by auctoritie of the ſaid Parliament, that no manner veſſell of other landes ſhall bee no time nor ſeaſon of the yeere from henceforth, from the feaſt of the Nativity of our Lord Jeſus Chriſte next comming, go in no part of the ſaid land betwixt the ſaid Iriſh enemies to no manner fiſhing without one ſpecial licence of the Lieutenant, his deputy or Juſtice of the land for the time being, or licence of another perſon having the

the kings power to grant such licence, upon paine of forfaiture of the shippe and goods to the King. And that whatsoever person or persons that find or impeche any of the said vessells, rumpants or forfaites against this act by the auctoritie of the same, it bee lawfull to them so making any claime in behalfe of the King, and approving the said forfaytures by any of the said vessels to be made, that the King shall have th'one moitye of the said forfeyture, and the said person or persons shall have th'other without anye impechment, and that all manner vessells of other lands comming in the said land of Ireland a fishing, being of the burden of twelue tunnes or lesse, haveing one Dover or boate, everye of them to paye for the maintenance of the Kings warres there xiii. s. iiii. d. by the yeer. And all other small vessells as scarfes or boates, not haveing Dover nor lighter being within the said burden of twelve tunnes, every of them shall paye twoe shillings goings a fishing in the like manner. Provided alwayes that no vessell fyshing in the North parte of Wicklo, be charged by reason of this act; and that the Lieutenant, his deputy or Justice of the land for the time being, shall have the foresaid summes and duties of mony so paid to be imployed in the Kings warres for the defence of the said land, and that the Customers and Collectors of the same summes shall accoumpt before the said Justice, Lieutenant, or Deputy for the time being, or such Auditors that shall be for the same appointed by the King or them, and not before the

Barons

Barons of th'exchequer in the ſaid lande; and that none of the ſaide veſſels ſo comming from other parts in the ſaide lande ſhall not depart out of the ſaide lande, till every of them pay their ſaid duties upon pain of forfeiture of the veſſels and goods to the King.

There are ſom alſo who affirm, that the King of *Spain*[f] obteined leav by requeſt from our Queen *Marie*, for XXI years, to fiſh in the more Northerly part of the *Iriſh* Sea, and that thereupon a Revenue of one thouſand pounds *per annum* was advanced to the Exchequer in *Ireland*. A Proclamation alſo was ſet forth by[g] *James* King of great *Britain*, prohibiting any foreiner, without leav firſt obteined, to fiſh in this *Iriſh* Sea. But as to what concern's that Controverſie about the *Iſle of Man*, although it bee remember'd by *Giraldus* (who wrote in the Reign of *Henrie* the Second) nevertheleſs it is to bee conceived, that it aroſe in the more antient times of the *Engliſh-Saxons*, when all that lie's betwixt *England* and *Ireland*, was in ſubjection either to the Kings of *Ireland*, or *Britain*, that is, when both of them had in this Sea diſtinct Territories of their own, whoſe Bounds were in queſtion. Certain it is, as[h] *Beda* write's, that *Edwin* the moſt potent King of the *Northumbrians*, or rather of all the *Engliſh-Saxons*, *ſubdued the* Mevanian *Iſles to the Dominion of England*, about the year DCXXX. That is to ſay, both that *Mevanian* which wee call *Angleſey*, & the other alſo which is *Man*, whereof wee diſcourſed. But in the later time of the *Anglo-Saxon* Empire, the *Norwegians* or *Danes*, who exceedingly infeſted both this and the North-eaſt Sea with very frequent Robberies, at length ſeized both this Iſle and the *Hebrides*, and held them almoſt two hundred years: So that in the mean time, this of *Man* could not in a Civil ſenſ bee

[f] *Gerardus Malinius, in Lege mercatoria cap. 35. pag. 189.*

[g] *Proclam. 7. Jacobi 6. Martii.*

[h] *Hiſt. Eccleſ. lib. 2. cap. 9.*

aſcribed either to *Ireland* or *Britain*. But that the Kings thereof were at that time Lords as well of the neighboring Sea as of the Iſles, may bee collected out of their Annals, where we find that *Godred*, whoſe ſirname was **Crovan**, *King of Man*, in the year of our Lord MLXVI *brought Dublin and a great part of* **Laynſter** [i] *under his ſubjection. And ſo throughly ſubdued the Scots, that no man, who built a Ship, durſt drive in more than three Nails* : So that hee gave both limitation and Law to the Shipping of his Neighbors; which is all one, as to enjoy the very Dominion of the Sea, as I have ſhewn in what hath been alreadie ſpoken. And from hence perhaps it is, that the more antient Arms of the Kings of *Man* were a Ship with a Sail folded together, and this Inſcription added, *Rex Manniæ & Inſularum*, **King of Man & of the Iſles**; as Mr [k] *Camden* obſerv's from their Sails: For, the three legs of humane ſhape, now every where known, are but of later time. But afterwards, when *Ireland* was ſubdued by *Henrie* the Second, and King *John*, and *Reginald* King of *Man* [l] brought into the power of King *John* (the *Engliſh* poſſeſsing this Sea at that time with a very numerous Navie) there is no reaſon at all to doubt, but that the neighboring Sea round about was taken alſo into the Dominion of the *Engliſh*. For, in that Age the *King of Man* was no abſolute Prince; but beeing ſubdued, hee paid homage to the King of *England*, & yielded under his ſubjection. But in a ſhort time after *Alexander* the Third, [m] King of *Scots*, annexed it to the Dominion of *Scotland*, and put in a Governor, who was to aſsiſt him upon occaſion with thirteen Gallies & five hundred Seamen. Hee recover'd the *Hebrides* alſo, by driving out the *Norwegians*, & tranſmitted it to his poſteritie. Then, *Man* returned again to the *Engliſh*; who enjoied *Ireland* a long time together with it & that ſea-territory. But the Kings of the *Hebrides*

[i] *Chronic. Regum Manniæ, pag.* 840.

[k] *Britanniâ, pag.* 847.

[l] *Chronic. Manniæ, anno.* 1210 *& Ret. cart.* 14. *Joannis R. membran. in dorſo.*

[m] *Hector Boëtius, hiſt. Scot lib.* 13.

Hebrides and of *Scotland* enjoied the Northern part of this *Weſtern* Sea, after that they had expell'd the *Norwegians* who were Lords here of the Sea. And from hence it is, that, as *Scotland*, *England*, this *Iſle of Man*, the *Hebrides*, and *Ireland* with other adjacent Iſles, ſo even the *Vergivian* and *Deucaledonian* Sea it ſelf waſhing the Weſt of *Scotland*, and ſurrounding theſe Iſles with windings and turnings, ought now alſo to bee accounted the antient Patrimonie of the King of *great Britain*.

But there is moreover, in the more Weſterly part of this open and main Sea, another Right belonging to the King of *Great Britain*, and that of a verie large extent upon the Shore of *America*. Whenas Sr *Humfery Gilbert* Knight, did by Autoritie of Queen *Eliſabeth* tranſport a Colonie into the *New World*, with deſign to recover certain Lands in the Eaſt parts of the Northern *America*, which of Right belong'd to the *Engliſh* Dominion, the *Queen* was by him, as her *Procurator* put into a poſſeſsion, for ever to bee held by her and her heirs, both of the Port, called by the name of St *John* (which is in the Iſland of *Baccalaos*) and alſo of the whole Sea as well as Land on every ſide,[n] for the ſpace of ſix hundred miles. Then hee received this new Kingdom of the *Queen*, as her Beneficiarie, having a Branch and a Turf deliver'd in his hands, according to the uſual cerimonie of *England* in transferring the Ownerſhip of Lands and Poſſeſsions. Nor truly was it neceſſarie, that hee ſhould otherwiſe get the Poſſeſsion, from whence this Dominion of the Queen and her Poſteritie had its Original. For (as *Paulus* ſaith well) there is no neceſsitie that *hee who* [o] *intend's to take poſſeſsion of a Field, ſhould walk about the whole, but tis ſufficient if hee enter any part of that Field, ſo long as hee doth it with a minde,*

[n] Hacklutt, in his Voyages, *Tom.* 2. *pag.* 151.

[o] *L.* 3. *ff. tit. de acquir. Rer. Dom.*

minde, thought and intent, to poſſeſs the Field to its utmoſt extent and Bound: Which ſaying may relate to Seas, as well as Lands, that were never taken into poſſeſsion. So that as [p] *Siculus Flaccus* Treating of *Occupatorie Lands*, ſaith, *Men did not poſſeſs ſo much land as they were able to till, but they reſerved as much as they were in hope they might bee able to till*, the like alſo may bee ſaid of a Sea ſo taken into poſſeſsion. Look how much was reſerved in hope of uſing and enjoying, ſo much alſo was bounded. But perhaps the firſt original of the Dominion of this main Sea of *America*, did not proceed from the Poſſeſſion that was acquired by *Gilbert*. Hee rather reſtored and inlarged the Right of the Crown here: For, that Iſland called *Baccalaos*, was added to the *Engliſh* Empire by [q] *Sebaſtian Chabot*, in the time of *Henrie* the Seventh. And it is certain, that afterwards it grew to be a Cuſtom, for the Officers belonging to the *High Admiral* of *England* (in whoſe charge are all the Seas ſubject to the King of *England* and *Ireland*, as King of *England* and *Ireland*) to demand Tributes of ſuch as fiſh't alſo in this Sea; which was (I ſuppoſe) a moſt evident token of the King's Dominion. But it was [r] provided by an Act of Parlament, in the Reign of *Edward* the Sixth, that no Tributes of that kinde, to the grievance of Fiſhermen, ſhould bee paid any longer. How far our *Engliſh* Colonies, lately tranſported into *America*, have poſſeſſed themſelvs of the Sea there, I have as yet made but little enquirie.

[p] *De Conditionibus Agrorum.*

[q] His Commiſſion you may finde, *Rot. Franc. 12. Hen. 7.*

[r] *Stat. 2. & 3. Ed. 6. cap. 6.*

Touching

Touching the Dominion of the King of Great Britain in the Scotiſh Sea, *eſpecially toward the* Eaſt *and* North.

CHAP. XXXI.

THoſe particulars which were cited before out of the [b] Proclamation of *James* King of *Great Britain*, about the Prohibition of Fiſhing, relate as well to the *Scotiſh Seas*, on every ſide; from whence alſo you muſt acknowledg their poſſeſsion hath been reteined together with an antient Sea-Dominion. That is to ſay, all Foreiners were prohibited to Fiſh in theſe Seas, without leav firſt obteined at *Edenburgh*. And in thoſe *Scotiſh* Acts of Parlament, they are not ſo much new Laws made, as old ones revived, wherby it was ordeined, **That all manner of [c] Fiſcheres, that occupies the Sea, and vtheres perſons quhat ſumever that happenis to ſlay Hering or quihte Fiſh upon the Coaſt, or within the Iles or out with the ſamen within the Frithes bring them to free Ports, &c. Where they may bee ſold to the Inhabitants of the ſame kingdom, quhairby his Majeſties Cuſtomes bee not defrauded, and his Hienes Lieges not fruſtrat of the Commoditie appointed to them be God under the pain of confiſcation and tynſel of the beſchelles of them that cumes in the contrair hereof, and eſcheiting of all their movable guddes to our ſoveraine Lords uſe.** So that uſe and benefit is claimed hence, by a ſpecial right in that Sea: otherwiſe truly, that uſe and bene-

[b] *Proclam. 7. Jacobi & Martii, 6.*

[c] *Parlam. 4. Jacobi R. 6. cap. 60. & Parlament. 6. ejuſdem cap. 86.*

fit would of right no more appertein either to the King of *Scotland* or his Subjects, than to any other whomsoëver. But the Law was made concerning all Fisher-men, as well strangers as *Scotch-men*; as beeing ordeined by all the Estates of that Kingdom, who so well understood both the King's Right, and also their own (as subordinate to the King's) by Tradition from their Ancestors, or by long-continued possession and Dominion, that there remained not the least ground of scruple touching that business. And a *Scotish* Lawyer speaking about Fishing in the Eastern Sea of *Scotland*, *I cannot*, saith[d] hee, *omit to tell you, that in the past Age, after a most bloudie quarrel between the* Scots *and* Hollanders *about occasions belonging to the Sea, the matter was composed after this manner, that in time to com the* Hollanders *should keep at least fourscore miles distance from the Coasts of* Scotland. *And if by accident they were driven near through violence of weather, they paid a certain Tribute at the Port of* Aberdene *before their return, where there was a Castle built and fortified for this and other occasions; and this was duly and really paid still by the* Hollanders *within the memorie of our Fathers, until that by frequent dissentions at home, this Tribute, with very many other Rights and Commodities, came to nothing, partly through the negligence of Governors, and partly through the boldness of the* Hollanders. So you see, how limits were by agreement prescribed heretofore in this Sea, to the Fishing of Foreiners. But the more Northerly Sea, which lie's against *Scotland*, was for the most part in subjection heretofore to the *Norwegians*, and *Danes*, who were Lords of the Isles there: So that the people of the *Orcades* speak the *Gothish* Language to this day. *Robertus de* [e] *Monte* tell's us, that hee, who was called *King of the Isles*, was possest of XXXII Islands

[d] *Guil. Welwodus, de Dominio Maris, cap* 3.

[e] *In Append. ad Sigebert. Gemblac. Anno* 1197.

ſlands in that Sea above four hundred and ſixtie years ago, *paying ſuch a Tribute to the King of* Norway, *that at the ſucceſsion of every new King, the King of the Iſles preſent's him ten marks in Gold, and make's no other acknowledgment to him all his life long, unleſs another King ſucceed again in Norway.* And [f] *Giraldus Cambrenſis*, writing of theſe things ſaith, *that in the Northern Sea, beyond* Ulſter *and* Galloway, *there are ſeveral Iſlands, to wit, the Orcades and Inchades* (or *Leucades*, which ſom would have to bee the *Hebrides*) *and many other, over moſt of which the* Norwegians *had Dominion and held them in ſubjection. For, although they lie much nearer to other Countries, yet that Nation beeing more given to the Sea, uſually preferr's a Piratick kinde of life above any other. So that all their Expeditions and Wars are performed by Sea-Fight.* This hee wrote in the time of *Henrie* the ſecond. So that ſomtimes thoſe Sea-Appendants of the Dominion of *Britain*, in the Northern parts, were invaded by Foreiners. Hence alſo it is, that [g] *Ordericus Vitalis*, ſpeaking of *Magnus* the ſon of *Olaus* King of *Norway*, ſaith; *hee had a great power in the Iſles of the Sea*; which relate's unto the time of *William* the Second King of *England*. The ſame *Ordericus* alſo ſaith, *that the* Orcades, Finland, Iſland *alſo and* Groënland, *beyond which there is no other Countrie Northward, and many other as far as* Gothland, *are ſubject to the King of* Norway, *and wealth is brought thither by ſhipping from all parts of the world.* So wee have here a clear deſcription of the Dominion of the *Norwegians* heretofore, as well in this neighboring Sea of *Scotland*, as in the more open. But in after time, when as by [h] agreement made between *Alexander* the third King of *Scots*, and *Magnus* the fourth of *Norwaie*, as alſo between *Robert Bruce* King of *Scotland*, and *Haquin* of *Norwaie*, it was concluded touching theſe Iſles,

[f] *Topograph. Hiberniæ, diſt. 2. cap. 11.*

[g] *Hiſtoria Eccleſiaſtica, lib. 10. pag. 767.*

[h] *Ex Tabulis publicis, Ferrerius, in Appendice. Hiſt.* Hectoris Boëtii ſubjunctâ, *pag.* 388.

Isles, that they should bee annexed to the *Scotish* Dominion; this could not bee don, but there must bee a Cession also of that Sea-Dominion, which bordered round upon the Coast of *Norwaie*. Yet the *Norwegian* King possessed it for the most part; and afterwards the *Dane*, by an union of the two Kingdoms of *Denmark* and *Norwaie*; until that *Christiern* the first, King of *Norwaie* and *Denmark*, upon the marriage of his daughter *Margarite* to *James* the third King of *Scotland*, made an [i] absolute Surrender of these Islands; and in the year of our Lord MCDLXX. transferr'd all his right both in the Isles of *Orcades* and *Shetland*, and the rest lying in the hither part of the Northern Sea, upon his Son in law, and his Successors. And as concerning this business, I shall here set down the words of *Joannes Ferrerius*, who was indeed Native of *Piedmont*, but supplied with matter of Historie out of the Records of *Scotland*, by *Henrie* **Sainclair**, Bishop of *Ross*. *Moreover in the Deucaledonian Sea toward the North-East, there are the Isles of* Orcades, *seated next to the Coast of* Scotland, *whereof onely twentie eight are at this daie inhabited*; *and above an hundred miles beyond the* Orcades *towards* Norway, *are the* Shetland *Isles in number eighteen, which are at this daie inhabited, and in subjection to the King of* Scotland; *concerning which, there was a great quarrel in former Ages between the* Scots *and* Danes, *yet the* Dane *kept possession. All these Islands did* Christiern *King of* Denmark *peaceably surrender, together with his daughter in marriage to* James *King of* Scots, *until that either hee himself or his posteritie paid to the* Scotish *King or his Successors, in lieu of her Dowrie, the summe of fiftie thousand Rhenish Florens, which were never discharged to this daie.* For, *so much I my self have seen and read in the Deeds of marriage betwixt Ladie* Margarite *daughter of the King of* Denmark

[i] *Munster. Cosmograph. lib. 2. & Guilielm. Camden. in Insulis Brit. pag. 849.*

mark *and* James *the third King of* Scotland, *drawn up and fairly signed with the Seals of both Kingdoms* Anno Dom. 1468. *&c. But afterwards, when Ladie* Margarite *beeing Queen had been delivered of her eldest son* James *Prince of* Scotland, *the* Danish *King willing to congratulate his daughter's good deliverie, did for ever surrender his right in the Islands of the Deucaledonian Sea, to wit, the Isles of* Orcades, Shetland, *and others, which hee deliver'd in pledg with his daughter, upon her marriage to the* Scotish *King. I hear the deeds of this surrender are kept among the Records belonging to the Crown of* Scotland. And so at length those Isles, and the Dominion of this Sea, returned to the Kings of *Scotland*, which they enjoy at this day. The Kings of *Scotland* have a pledg of Dominion also in this Sea, that is to say, Tributes or Customs imposed upon Fisher-men, for Fishing; of which by the way you may read in their [k] Acts of Parlament.

[k] *Parlam. 6. Mariæ, Reginæ Scot. c. 54.*

Touching that Right which belong's to the King of Great Britain, in the main and open Sea of the North. *And the Conclusion of the Work.*

CHAP. XXXII.

CONcerning that Neighboring Sea, which is a Territorie belonging to the *Scots*, I have spoken in the former Chapter. But I must not omit to treat here of that Sea, which stretcheth it self to a very large extent toward the North, washing the Coasts of *Friesland, Island*, and other Isles also under the Dominion of the King of *Denmark*, or of *Norway*. For, even this

Sea also is ascribed by som to the King of *Great Britain*. *Albericus Gentilis*, applying that of [b] *Tacitus*, *The Northern Coasts of* Britain, *having no Land lying against them, are washt by the main and open Sea; you see,* [c] saith hee, *how far the Dominion of the King of* Great Britain *extend's it self toward the South, North, and West.* As if almost all that which lay opposite to the *Isles of Britain*, in the open Sea, were within the Dominion of the King of *Great Britain*. And concerning the Northern Sea also, which reacheth there to parts unknown, the very same thing in a manner was acknowledged by a subject of the King of *Denmarks*, no mean man, in a Letter that hee wrote som years since to a friend of his in *England*, his name is *Gudbrandus Thorlacius*, Bishop of *Hola* in *Island*, who in a Letter [d] sent hither *Anno* MDXCV, to *Hugh Branham* Pastor of *Harwich*, call's the *Britains* almost-Lords there of the whole Sea. *There is*[e], saith hee, *a report now at this day, that you of* Britain (*whom I had almost called Lords of the Sea*) *have Negotiations every Year in Groenland.* But the Kings of *Denmark* deny it here; and this more Northerly Sea which belong's to *Island*, they challenge to themselvs, as they are Kings of *Norway*; and that by antient right, if not unjustly pretended. To this purpose let us observ, that passage which I finde in a speech of the Ambassadors of *Erricus* the tenth King of *Norway* and *Denmark*, delivered unto our *Henrie* the fift, which run's to this effect. [e] *Most victorious King of* England, *may it pleas your Majestie to understand, that our most gratious Lord the King of* Norway, &c. *aforesaid, hath certain Islands, to wit,* Island, **Jeroy, Hietland,** *and manie more belonging to his Kingdom of* Norway, *whereunto of old no persons were wont to repair out of other Countries, upon any occasions whatsoëver either of Fishing or Merchandising, under peril of life and limbs;*

[b] In the life of *Agricola*.

[c] *In Advocat. Hispanic. lib. 1 cap. 8.*

[d] Hacklait in his Voiages. *Tom. 1. pag.* 590.

[e] 3 *Hen. 5. seu Annº Dom. 1453. in Schedis vetustis* Bibliothecæ Cottonianæ.

limbs; nor might the men of the Kingdom of Norway, *more than those of other Countries, without special licence from his Majestie. Nor might they after Licence obteined, set forth out of any other place than the Citie of* Bergen, *nor return to the same place but upon inevitable necessitie, or when they ought to paie Customs and other Duties to the King's Exchequer, according to the most antient Custom of* Norway, *which hath been constantly observed time out of minde in that Kingdom.* Also, in the year MCCCCXLV. *Christophor* King of *Denmark* and *Norway*, [f] granted the Inhabitants of *Zirickzee* in *Zealand* a freedom of Navigation into his Kingdom, *Island and other Isles beeing excepted and prohibited*, which are the very words of the Grant. Moreover, out of the League made at *Koppenhagen* in the year of our Lord [g] MCDXXXII. between our *Henrie* the sixt and the same *Erricus* King of *Norwaie*, and *Denmark*, the Commissioners of the King of *Denmark* who held a Treatie at *Bremen* with the Commissioners of our Queen *Elisabeth*, in the year MDCII about the free use of this Sea, alleged this Article almost to the same sens; *It is provided, that all Merchants, and all other men whatsoëver in subjection to the King of* England *and* France, *do not presume hereafter, under peril of loss of life and goods, to visit the Countries of* Island, Finmarck, Halghaland, or *anie other prohibited places and unlawful Ports whatsoëver, in the Kingdoms of* Denmark, Sweden, *and* Norway. Yea, and som years before, the use of this Sea was prohibited both to Merchants and Fisher-men, unless they were bound with Merchandise to *North-barn*, the most eminent Town of Traffick under the King of *Norwaie*. And touching that particular, there is an Act of Parlament of *Henrie* the sixt, whereby [h] such a kinde of Prohibition continued in force for certain years, in favor of the King of *Norwaie*. So that there were many Letters

[f] *Isaacus Pontanus in Hist. Danicâ, & Zuer. Boxhorn. in Apologiâ pro Navigatione Holland.*

[g] *Fœd. Hen. 6 Augliæ, & Errici 10. Daniæ R. 1432. art. 6.* Ex Tabulis Legationis Danicæ seu Dissertationis Bremensis, 1602. in in Bibliothecâ Cottonianâ.

[h] *Stat. 8 H. 6 cap. 2. & Rot. Parlam. 8 Hen. 6. num. 35.*

ters Patents afterwards granted by [i] our Kings to their subjects of *England*, whereby they had Licence to go unto *Island*, *Finmark*, and other Dominions of the King of *Norway* and *Sweden*. But that Statute, the rigor whereof was dispensed with at the King's pleasure, by such kinde of Grants, became [k] repealed at the beginning of the Reign of King *Henrie* the eight. And *Joannes Maior* making mention of that time, saith, [l] *A Fleet of* English *went everie year to* Island, *beyond the Arctick Circle to catch Fish.* But what manner of determination soever ought to bee made touching the Dominion of this more Northerly Sea; yet certain it is, such a perpetual servitude at least was, by several agreements betwixt the Kings of *England*, and *Norwaie*, imposed upon it, that to this day also the subjects of *England* enjoy a perpetual right of sailing unto *Island*, and of using and enjoying this sea. For, by a League made at *Koppenhagen* in the year MCDXC. betwixt *Henrie* the seventh of *England* and *John* the second King of *Denmark* and *Norwaie*, it was concluded, [m] *that all Merchants and Liege-men, Fisher-men, and any other persons whatsoëver beeing subjects of the King of* England *and* France, *might for ever in time to com sail freely to the Island* Tyle, *that is to saie,* Island (for, in that age it was generally taken for *Thule*, as it is now also by som.) *thither to have recourse and to enter with their ships and goods, and merchandise, victuals, and any other commodities whatsoëver, upon occasion of buying, selling, fishing, or merchandising; and there to abide and converse after the manner of* Merchants, *and from thence freely to return as often as they please, without any Prohibition, molestation, or impediment of Us or our heirs and successors in the* Kingdoms *of* Denmark *and* Norway, *or of any of our Officers; they paying the due rights and usual Customs as well in that Island as also in the Ports belonging to the*

[i] *Rot. Francie*, 18 H. 6. *membran.* 16. *Rotul. Franc.* 12 H. 7. *Rot. Franc.* 1 Ed. 5. &c.

[k] *Stat. Hen.* 8. *cap.* 1.

[l] *De Gestis Scotorum, l.* 1.

[m] *Fœd. Danic.* 11 *Hen.* 7 *art.* 4. *quod in Tabulis Legationis* 1602. *etiam habemus.*

the ſame where they ſhall happen to arrive. Provided alwaies, that ſeven years immediatly after the date of theſe preſents, they do Petition to renew their Licence from us and our ſucceſſors Kings of Denmark *and* Norway, *to the end that ſo from ſeven years to ſeven years,* Merchants, *and all other perſons aforeſaid, may for ever acknowledg us and our ſucceſſors Kings of* Denmark *and* Norway, *in the renewing of their Licence.* But that this League was not limited by any time, but concerned the heirs and ſucceſſors of both the parties, appear's not onely in part by what hath been alleged alreadie, but by the very form of the Preface, which I thought meet to add in this place. *Wee* John *by the Grace of God King as aforeſaid, by the unanimous advice and conſent of our beloved Counſellors, and others the Lords and Nobles of our Kingdom of* Denmark, *have cauſed a Treatie to bee had, with the Orators of the moſt illuſtrious Prince* Henrie, *by the Grace of God, King of* England, *and* France, *our moſt dear Brother,* James Hutton, *Doctor of the Civil Law,* Thomas Clarentieux *King of Arms,* Thomas Carter, *and* John Beliz, *Merchants of* Lyn, *about the reſtoring of peace, and eſtabliſhing a perpetual concord between our Kingdoms; which Counſellors of ours, and the Orators, autoriſed in our Citie of* Koppenhagen, *by ſpecial Commiſſion of the afore-named King of* England, *our moſt dear Brother, and with full power, whereof wee are aſſured by the Letters of the ſaid King of* England, *have concluded, that between us, our heirs, and ſucceſſors, well willers, friends and allies, and the moſt illuſtrious Prince* Henrie *King of* England *and* France, *our moſt dear Brother, his heirs and ſucceſſors, well willers, friends, and allies, there bee and ſhall bee for ever in time to com, a perpetual peace, inviolable friendſhip, and firm concord, in the following form.* Yea, and that League was renewed in the year MDXXIII. by *Henrie* the eight of *England,* and *Chriſtiern* the ſecond King of

Denmark and *Norway*, in the same form. The right therefore is perpetual, and transmitted to the heirs of the K. of *England*, that the English should have a free use of this more Northerly Sea belonging to *Island*. But frequent Ambassies notwithstanding passed on both sides about that business, in the Reigns of *Frederick* the second, and *Christiern* the fourth, Kings of *Denmark*, and of *Elisabeth* Queen of *England*. The *Danes* alleged, that the English had no right to use this kinde of libertie, without leav first obteined of the Kings of *Denmark*, and that renewed every seven years, according to that league made in the time of *John* the second and *Henrie* the seventh. Moreover, *Nicolas Craig*, who was sent Ambassador into *England* by *Christiern* the fourth in the year MDXCIX. pretended the agreement at *Haderslabe*, in the year MDLXXXIII. between *Frederick* the second and Queen *Elisabeth*, as if it had therein been expressly provided, that this servitude in the Sea of *Island*, established by the English, might bee limited by a denial of Licence at the pleasure of the King of *Denmark*. But it was answer'd both by the Lords at home in *England*, as also by the Queen's Commissioners sent to *Bremen* for the transacting of this business, that this right or Sea-servitude is so confirmed to the English, as well by Prescription of time, as by perpetual agreements of Leagues, that that particular which occurr's in the agreements of King *John* the second, and *Henrie* the seventh about asking of Licence, doth in no wise relate to this effect; that whether it were denied or not requested by Petition, that right or servitude could bee diminished, but to this end onely, that the English, by a customarie Petitioning every seven years, might acknowledg the *Norwegian* right in this Sea. There was neither manner, nor condition, nor time annexed to the servitude, but it took

took place there onely to this end, that the memorie meerly of the benefit of the League or of the Original of the ſervitude eſtabliſhed, might bee renewed now and then by Petition. Yea, *Frederick* the ſecond in his letters to Queen *Eliſabeth*, dated the fourth of *Maie*, MDLXXXV, moſt expreſsly diſclaim's this Clauſ of the League, which concern's Petitioning for Licence. And truly the whole right of the Engliſh in that Sea, was not firſt claimed by them upon the account of that League at *Koppenhagen*, whatever they of *Norway* may pretend to the contrarie. For, when the Ambaſſadors ſent heretofore by *Erricus* the tenth to our *Henrie* the fift, made complaint about Engliſh men's fiſhing in this Sea, the King of *England* (I ſuppoſe) intimate's plainly enough, that hee had ſom right before in that Sea, while at that time hee granted this onely in favor of the King of *Norwaie*, that the Engliſh ſhould no otherwiſe uſe Fiſhing there for the year immediately enſuing, *than as it had been uſual in antient time*, and this hee commanded by publick Proclamation made in the more eminent Ports and Cities. The time limited, and the antient Cuſtom of Fiſhing, do plainly import ſom former right. But here I give you the form of the Proclamations; [n] *It is required, that none of the Lieges of our Lord the King, for certain cauſes ſpecially moving our Lord the King himſelf, do, for one year next enſuing, preſume to go unto the Iſlands belonging to the kingdoms of* Denmark *and* Norwaie, *and eſpecially towards the Iſle of* Iſlande, *for the cauſ of Fiſhing or any other occaſion, to the prejudice of the King of the aforeſaid kingdoms, otherwiſe than they were wont in antient time.*

[n] *Vet. Sched. de Temp. Hen. 5. in Bibliothecâ Cottonianâ. & Rot. Clauſ. 3 Hen. 3. Membran. 5. in dorſo.*

It appear's alſo by Parlamentarie [o] Records of the ſame King's Reign, that the Engliſh uſed Fiſhing in that Sea very many years before. But that League made at *Haderſlabe*

[o] *Rot. Parl. 3 Hen. 5. par. 1. membr. n. 33.*

Haderſlabe (pretended before by *Craig*) doth not relate unto Fiſhing either in the Sea of *Iſland*, or in this of *Norwaie*, but to the Traffick and Merchandiſe uſed then by our Merchants of the *Moſcovie*-Companie. For, this onely was agreed, that the Merchants of that Companie, beeing conſtrained by Tempeſts, or otherwiſe; might freely have acceſs to the ſhores and Ports both of *Iſland* and *Norwaie*; *but with this Reſerv, that they do not in any kind Traffick, and uſe Merchandiſe, in the Ports of* Norwaie *or* Iſland *before prohibited, nor moleſt the Subjects of the King of the ſaid places in any thing againſt the Laws of Hoſpitalitie, and that they wholly abſtein from all manner of injurie*; which is the ſumme of that Anſwer which was given to *Craig*, by the Peers of *England*. But all things are clearly explained about this buſineſs, and that right of the Engliſh defended at large in the Letters ſent by Queen *Eliſabeth* to *Chriſtiern* the fourth bearing date *Cal. Septembris Anno* MDXCIX. So much whereof as concern's this particular, I think meet to inſert. *At the requeſt of the moſt excellent Prince your Highneſſe's Father, wee ſent* (ſay the Queen's Letters) *an Ambaſſador into* Germanie, *Anno* MDLXXVII. *who Treated with his Commiſsioners about all matters in controverſie, and eſpecially about the Fiſhing of* Iſland *and* Norway, *where it was found, that the King inſiſted onely upon a former Treatie of two years* [p] *Truce, wherein it was at that time agreed, that the Engliſh ſhould not ſail beyond* Hagaland. *But there were ſeveral Treaties with the Kings* John *and* Chriſtiern *alleged on our part, wherein, all former controverſies beeing compoſed, it was otherwiſe agreed and concluded; and both parties were to ſtand to this Treatie of general peace made afterwards, not to the preceding two years Truce. Which the moſt excellent Prince your Father, acknowledging, deſired by his Letters, that that controverſie might bee referr'd to another diſqui-*

[p] *Sub Edwardo* IV. *Angliæ R.*

disquisition. But since that time, no such disquisition hath been made. Nevertheless wee understand that our subjects fishing have been taken, tormented, and handled in a hostile manner. Whether this bee justly don, all men will bee able to judg who shall weigh our Reasons with an impartial minde. Wee do not deny, but that the Lord Chancellor Whitfeld *and de* Barnico, *when* [q] *they came unto Us, did in words pretend that the fishing of* Island *and* Norway *was used by the* English, *contrarie to the Leagues and Agreements of the Kingdoms. But seeing they neither did nor could produce any proof, and wee have authentick evidences attested by the Kings* John *and* Christiern *to the contrarie, whereto more credit ought to bee given than to bare Allegations, the matter was put off to another time. It was answer'd also to* Dr Craig, *that the Transaction which was concluded with King* Frederick *at* Haderslabe *in the year of our Lord* MDLXXXIII *belong's nothing at all to this Business*, for the reason before mentioned. And a little after the Letters speak thus. *But that which is pretended from the Treatie with King* John, (the aforesaid Treatie at *Koppenhagen*) *that licens for fishing ought to bee renewed by petition from seven years to seven years (as a thing which for very many was not omitted) Wee answer, that the fault of its omission proceeded not from the* English, *but from the* Danes. *For, that seven years Licens was petitioned for till the time that King* Christiern *was expelled, about the year of our Lord* MDXXI. *But afterward it ceased to bee renewed, becaus of the uncertaintie to whom the succession of the Kingdom did lawfully belong. And since the time of the said expulsion of King* Christiern, *neither King* Frederick *your great Grandfather, nor* Christiern *your Grandfather, nor* Frederick *your Highnesse's Father, ever urged any such petition for Licens. But concieving former Treaties sufficient, which*

[q] They were Ambassadors in *England anno* 1597.

were made between the Kings and Kingdoms, they would not innovate any thing after a prescription of verie manie years, seeing they were otherwise sufficiently secure that the same thing would never bee attempted, which was the first occasion of ordaining such a Licens. And to this end, the Letters of King Frederick *your Highnesse's Father written to Us, and bearing date the fourth of* May, *Anno* MDLXXXV *were shewn to Doctor* Craig, *purporting that if the* English *absteined from doing injuries, they should enjoy the wonted libertie and favor, without any mention or requiring of a Petition for Licens; whereas nevertheless Wee offer'd you, that our Merchants should hereafter petition you from seven years to seven years, according to the antient and long continued Custom, which offer Wee understand your Highness would not admit.* For, the most excellent Queen would not otherwise acknowledg the Jurisdiction and Empire of the King of *Denmark* and *Norway* in this Sea, than that the whole servitude or right of fishing afore-mentioned, there established (as afore-said) might (as a considerable part of the antient Patrimonie) bee reteined to her and her Successors. There were other Letters and Treaties also about this business, in the year[r] MDCII. But the Controversie beeing deferred, nothing was concluded. But it appear's the King of *Great Britain* hath Empire and Dominion also in the Sea which lie's far more Northerly than *Island*. To wit, in that of *Groënland*. For, this Sea having never been enter'd by occupation, nor used in the Art and Exercise of Fisherie, was first in the memorie of our Fathers rendred very gainful, through a peculiar fishing for Whales, by those *English* Merchants of the *Moscovie*-Companie who sailed that way. The use of a Sea never enter'd by Occupation and such a kinde of profit beeing first discover'd, doth

[r] *Camden. in Annal. Elisabeth tom. 2. anno 1602.*

doth according to the manner of the claim, give a Dominion to the diſcoverer who claim's it in the name of another (as here in the name of the Soveraign of *England*) as well by a corporal as intentional poſſeſsion, no otherwiſe than doth the firſt both natural and civil poſſeſsion of any other things whatſoëver that were never yet poſſeſſed. Upon which ground it was, that King *James*, in his Letters of credence given to the worthie and moſt accompliſhed Sr *Henrie Wotton* Knight his Ambaſſador in *Holland*, and others emploied by him to treat about that buſineſs, did verie juſtly call *the Fiſhings in the North Sea near the Shores of Groenland*, [f] *acquired for Us onely and Ours by right.*

f 29 *Septemb.* A Copie of which Letters is in Sr *Robert Cotton's* Librarie.

But that wee may at length conclude; whatſoëver hath been diſcourſed hitherto touching the Right and Sea-Dominion of the Kings of *Great Britain*, and the antient extent of their Royal Patrimonie in the Sea, give mee leav to ſum up the whole in certain Verſes of the moſt excellent *Hugo Grotius* (of whoſe Law-writings, ſo far as they concern either a private Dominion of the Sea, or a Communitie, wee have ſpoken in the former Book) which were very elegantly written heretofore to K. *James*, upon his Inauguration in the Kingdom of *England*. Saith hee,

——— [t] *Tria ſceptra Profundi*
In Magnum coiere Ducem. ———

t *Sylvarum, lib.* 2.

Three Scepters of the Deep their pow'rs do bring,
To make a Trident for a mightie King.

And then addreſsing his Speech to the Sea, that is wont to receiv its motion from the Moon,

Sume animos à Rege tuo, meliore levatus
Sidere, nec cela populos quocunque calentes
Sole, per immenſum quem circumvolveris orbem,
Quis det Jura Mari.———

Take courage from thy Roial Governor,
As by the influence of a better Star,
And in thy court about the World explain
To all mankinde, who tis that rule's the main.

And in another place,

———*licèt omnia caſus*
Magna ſuos metuant, Jacobo promiſſa poteſtas
Cum Terris Pelagóque manet.———

Though all great things a fall do fear,
Yet James his power muſt ſtand,
Beeing enlarged and compoſ'd
Both of the Sea and Land.

A little after alſo, hee proceed's thus;

———*Rerum Natura creatrix*
Diviſit populos, & metas ipſa notavit.
Sic juga Pirenæ, ſic olim Rhenus & Aſpes
Imperiis menſura fuit: Te flumine nullo
Detinuit, nullâ nimboſi verticis arce;
Sed Totum complexa parens hic terminus ipſa
Subſtitit, atque uno voluit ſub limite claudi.
Te tibi ſepoſuit, ſupremo in gurgite, Nereus.
Finis hic eſt, qui Fine caret. Quæ meta Britannis,
Litora ſunt aliis; Regníque acceſſio tanti eſt,
Quod ventis veliſque patet.———

Nature

Nature her self the mistress of mankind
Hath sever'd Nations, and their bounds de-
sign'd.
So the Pyren'ean Tops, Aspes, and Rhine,
As bounds to Empires Shee did once assign.
Yet Thee Shee with no River hath confin'd,
Nor loftie Tow'r that dare's the stormie
wind:
But having thrown her wide imbraces round
The Univers, here fix't her self thy Bound,
And mean't one limit should you both contain,
Thee Nereus hath secluded in the main.
This Bound unbounded is. Great Britain
stand's
Confined by the Shores of other lands;
And all that may by Winds and Sails bee
known
Is an accession of so great a Crown.

And without question it is true, according to the Collection of Testimonies before alleged, that the very Shores or Ports of the Neighbor-Princes beyond-Sea, are Bounds of the Sea-Territorie of the *British* Empire to the Southward and Eastward; but that in the open and vast Ocean of the North and West, they are to bee placed at the utmost extent of those most spacious Seas, which are possest by the *English*, *Scots*, and *Irish*.

FINIS.

Prais and Glorie bee to God our Saviour.

EVIDENCES

ADDITIONAL
EVIDENCES,

Concerning the

RIGHT OF SOVERAIGNTIE
and Dominion of *ENGLAND*
in the SEA;

Collected
Out of certain publick Papers, relating
to the Reigns of K. *JAMES*,
and K. *CHARLS*.

LONDON,
Printed by *William Du-Gard*. *An. Dom.* 1652.

ADDITIONAL EVIDENCES

Concerning the

RIGHT OF SOVERAIGNTIE and Dominion of *ENGLAND* in the SEA;

Collected

Out of certain publick Papers, relating to the Reigns of K. *JAMES*, and K. *CHARLS*.

THE Learned Autor having fully evinced the Right of this Island in the Sea, and that from all Antiquitie, it were superfluous to seek after any farther Testimonies relating to elder times, wherein hee himself hath been so abundant, and alreadie set down the most material; And therefore it is conceived requisite to add a few such Evidences onely, as are found among several Papers of publick Transaction, which are still to bee produ-

ced, and will serv to shew how that claim which hath been made successively by all our Kings of the *English* Race, was continued down to the present Times, by the two Princes of the *Scotish* Extraction.

In the seventh year of the Reign of King *James*, this Right was stoutly asserted by *Proclamation*, and all persons excluded from the use of the Seas upon our Coasts, without particular Licence; the Grounds whereof you have here set down in the *Proclamation* it self.

A Proclamation TOUCHING FISHING.

JAMES by the Grace of God King of Great Britain, France, and Ireland, Defendor of the Faith, &c. To all and singular persons to Whom it may appertein, Greeting. Although Wee do sufficiently know by Our Experience in the Office of Regal Dignitie (in Which, by the favor of Almightie God, Wee have been placed and exercised these many years) as also by the observation which Wee have made of other Christian Princes exemplarie actions, how far the absolutenes of Soveraign Power extendeth it

it self, and that in regard thereof, Wee need not yield accompt to any person under God, for any action of Ours, which is lawfully grounded upon that Just Prerogative: Yet such hath ever been, and shall bee Our care and desire to give satisfaction to Our Neighbor-Princes, and friends, in any action which may have the least relation to their Subjects and Estates, as Wee have thought good (by way of friendly premonition) to declare unto them all, and to whomsoever it may appertain, as followeth.

Whereas Wee have been contented since Our coming to the Crown, to tolerate an indifferent and promiscuous kinde of libertie to all Our Friends whatsoever, to Fish within Our Streams, and upon any of Our Coasts of Great Britain, Ireland, and other adjacent Ilands, so far forth as the permission or use thereof might not redound to the impeachment of Our Prerogative Roial, nor to the hurt and damage of Our loving Subjects, whose preservation and flourishing Estate Wee hold Our self principally bound to advance before all worldly respects: So finding that Our continuance therein, hath not onely given occasion of overgreat encroachments upon Our Regalities, or rather questioning for Our Right, but hath been a means of daily Wrongs to Our own People that exercise the Trade of Fishing, as (either by the multitude of strangers which do pre-occupie those places, or by the injuries which they receiv most commonly at their hands) Our Subjects are constrained

to abandon their Fishing, or at least are becom so discouraged in the same, as they hold it better for them, to betake themselvs to som other cours of living, Whereby not onely divers of Our Coast-Towns are much decayed, but the number of Mariners daily diminished, Which is a matter of great consequence to Our Estate, considering how much the strength thereof consisteth in the power of Shipping and use of Navigation; wee have thought it now both just and necessarie (in respect that Wee are now by God's favor lineally and lawfully possessed, as well of the Island of Great Britain, as of Ireland, and the rest of the Iles adiacent) to bethink Our selvs of good lawful means to prevent those inconveniences, and many others depending upon the same. In consideration whereof, as wee are desirous that the World may take notice, that wee have no intention to denie Our neighbors and allies, those fruits and benefits of Peace and Friendship, which may bee justly expected at Our hands in honor and reason, or are affored by other Princes mutually in the point of Commerce, and Exchange of those things which may not prove prejudicial to them: so becaus som such convenient order may bee taken in this matter as may sufficiently provide for all these important considerations which do depend thereupon; wee have resolved first to give notice to all the World, that Our express pleasure is, That from the beginning of the Monthy of August next coming, no person of What Nation or Qualitie soever, beeing not Our natural borh Subject,

bee

bee permitted to Fish upon any of Our Coasts and Seas of Great Britain, Ireland, and the rest of the Isles adjacent, Where most usually heretofore any Fishing hath been, until they have orderly demanded and obteined Licenses from Us, or such Our Commissioners, as wee have autorised in that behalf, viz. at London for Our Realms of England and Ireland, and at Edenborough for Our Realm of Scotland; Which Licenses Our intention is, shall bee yearly demanded, for so many Vessels and Ships, and the Tonnage thereof, as shall intend to Fish for, that Whole year, or any part thereof, upon any of Our Coasts, and Seas as aforesaid, upon pain of such chastisement, as shall bee fit to bee inflicted upon such Wilful Offendors.

Given at our Palace of Westminster *the 6 day of* May, *in the 7th year of Our Reign of* Great Britain, *Anno Dom.* 1609.

Notwithstanding this Proclamation, the *Netherlanders* proceeded still in their way of encroachment upon our Seas and Coasts, through the whole Reign of that King, and were at length so bold as to contest with him, and endeavor to baffle him out of his Rights; pretending, becaus of the long connivence of himself and Queen *Elisabeth*, that they had a Right of their own by *immemorial possession*; which som Commissioners of theirs that were sent over hither, had the confidence to plead *in Terminis*, to the King and his Council. And though the King, out of his tenderness to them insisted still upon his own Right, by his Council

to those Commissioners, and by his Ambassador to their Superiors, yet they made no other use of his Indulgence, than to tire out his whole Reign, and abuse his Patience by their artificial delaies, pretenses, shifts, dilatorie addresses, and evasive Answers. And all that the King gained by the tedious disputes, overtures, and dispatches to and again, was in conclusion onely a verbal acknowledgment of those Rights; which at the same times that they acknowledged, they usually designed to invade with much more insolence than before. But you have the main of what passed in those daies in this particular, with their insolent demeanor, lively described in these following Collections, taken out of several Dispatches that passed betwixt Secretarie *Naunton*, and *Dudley Carlton* Lord Ambassador from the King, to the States of the *United Provinces*.

In a Letter of Secretarie *Naunton's* to the said Ambassador, dated at *White-Hall*, the 21 of *December*, 1618. I finde these passages.

I Must now let your Lordship know, that the State's Commissioners and Deputies both having attended his Majestie at New-Market, *and there presented their Letters of Credence, returned to* London *on Saturday was a sevennight, and upon Tuesday had Audience in the Council-Chamber, where beeing required to communicate the points of their Commission, they deliver'd their meditated Answer at length. The Lords upon perusal of it, appointed my Lord* Bining *and mee to attend his Majestie for directions, what Reply to return to this Answer of theirs; which I represented to their Lordships yesterday to this effect; That his Majestie found it strange, that they*

they having been so often required by your Lordship his Majesties Ambassador, as from himself, in their publick Assembly, to send over Commissioners fully autorised to treat and conclude, not onely of all differences grown between the Subjects of both States, touching the Trade to the East-Indies, *and the* Whale-Fishing, *and to regulate and settle a joint and an even Traffick in those Quarters, but withall to take order for a more indifferent cours of determining other Questions growing between our Merchants and them about their Draperies and the Tare; And more especially to determine his Majesties* Right for the sole Fishing upon all the Coasts of his Three Kingdoms, *into which they had of late times incroached farther than of Right they could; And lastly, for the reglement and reducing of their Coins to such a proportion and correspondence with those of his Majestie's and other States, that their Subjects might make no Advantage to transport our Monies by inhansing their valuation there. All which they confessed your Lordship had instanced them for in his Majestie's name, that after all this attent on his Majestie's part, and so long deliberation on theirs, they were com at last with a Proposition to speak onely to the two first points, and instructed thereunto with bare Letters of Creance onely, which his Majestie take's for an Imperious fashion of proceeding in them, as if they were com hither to Treat of what themselvs pleased, and to give Law to his Majestie in his own Kingdom, and to propose and admit of nothing but what should tend meerly to their own ends.*

To the second; Whereas they would decline all debate of the Fishings upon his Majestie's Coasts, first by allegations of their late great losses and an Esmeute *of their people, who are all interessed in that Question, and would bee like to break out into som combustion to the hazard of their State which hath lately scaped* Naufrage, *and is not yet altogether calmed; What is this but to raise an advantage to themselvs out of their disadvantage? But afterwards they profess their lothness to call it*

it into doubt or question, claiming an immemorial possession seconded by the Law of Nations; To which his Majestie will have them told, that the Kings of Spain *have sought leav to Fish there by Treatie from this Crown; and that the King of* France *(a nearer Neighbor to our Coasts than they) to this day requests leav for a few Vessels to Fish for Provision of his own household; And that it appears so much the more strange to his Majestie, that they beeing a State of so late date, should bee the first that would presume to question his Majestie's antient Right so many hundred years inviolably possessed by his Progenitors, and acknowledged by all other antient States and Princes. That themselvs in their publick Letters of the last of* June, *sent by your Lordship, seemed then to confirm their immemorial possession (as they tearm it) with divers Treaties, as are of the year* 1550; *and another between his Majestie's Predecessors and* Charls *the fift, as Prince of those Provinces, and not by the Law of Nations. To which their last Plea, his Majestie would have them told, that hee beeing an Islander-Prince, is not ignorant of the Laws and Rights of his own Kingdoms, nor doth expect to bee taught the Laws of Nations by them, nor their* Grotius, *whose ill thriving might rather teach others to disavow his Positions; And his haveslie called in question by themselvs, might render his Learning as much suspected to them, as his person. This his Majestie take's for an high point of his Soveraigntie, and will not have it slighted over in any fashion whatsoëver.*

Thus I have particulated unto you the manner of our proceeding with them. Let them advise to seek leav from his Majestie, and to acknowledg him his Right, as other Princes have don, and do; or it may well com to pass, that they that will needs bear all the world before them, by their Mare Liberum, *may soon com to have neither* Terram & Solum, *nor* Rempublicam liberam.

And

And in a Letter of the said Ambassador *Carlton* to Secretarie *Naunton*, of the 30 of *December*, 1618, from the *Hague*, wee finde this Return, touching the business of *Fisherie*.

WHether the final resolution here will bee according to his Majestie's desire, in that point concerning the Fishing upon the Coasts of his three Kingdoms, I cannot say; And by somwhat which fell from the Prince of Orange, *by way of Discourse when hee took leave of mee on Monday last, as his departure, I suspect it will not, in regard the Magistrates of these Towns of* Holland, *being newly placed, and yet scarce fast in their seats, who do authorise the Deputies which com hither to the Assembly of the States in all things they are to Treat and resolve, will not adventure, for fear of the people, to determine of a Business, on which the livelihood of fiftie thousand of the Inhabitants of this one single Province doth depend. I told the Prince that however his Majestie, both in honor of his Crown and Person, and Interest of his Kingdoms, neither could nor would any longer desist, from having his Right acknowledged by this State, as well as by all other Princes and Commonweals, especially finding the same openly oppugned both by their States-men, and men of War, as the writings of* Grotius, *and the taking of* John Brown *the last year may testifie; yet this acknowledgment of a Right and a Due was no exclusion of Grace and Favor; and that the people of this Countrie paying that small Tribute upon every one of their Busses, (which is not so much as disputed by any other Nation whatsoever) such was his Majestie's well-wishing to this State,*

that I presumed of his permission to suffer them to continue their cours of Fishing; *which they might use thereby with more Freedom, and less apprehension of molestation, and let than before, and likewise spare the Cost of som of their Men of War, which they yearly send out to maintein that by force, which they may have of courtesie.*

The Prince *answer'd, that for himself at his return from* Utrecht, *hee would do his best endeavor to procure his Majestie contentment, but hee doubted the* Hollanders *would apprehend the same effect in their paiment for Fishing, as they found in the passage of the* Sound, *where at first an easie matter was demanded by the King of* Denmark, *but now more exacted than they can possibly bear: And touching their Men of War hee said, they must still bee at the same charge with them, becaus of the Pirats. Withal, hee cast out a question to mee, whether this freedom of Fishing might not bee redeemed with a Summe of monie? To which I answered, it was a matter of Roialtie more than of Utilitie, though Princes were not to neglect their profit.*

And in another Letter of the said Ambassador from the *Hague* to Secretarie *Naunton*, of the 14 of *Januarie* 1618. Hee give's him to understand, That *having been expostulated with, but in friendly manner, by certain of the* States *about his late Proposition, as unseasonable and sharp,* they said, *they acknowledg their* Commissioners *went beyond their limits in their terms of* Immemorial Possession *and* immuable Droict de Gens; *for which they had no order. Then,* saith hee, *I desired them to consider what a wrong it is to challenge that upon right, which these Provinces have hitherto enjoied, either by connivence or courtesie, and yet never without claim on his Majestie's side, &c.*

In

In another Letter of Secretarie *Naunton's* to the Lord Ambaſsador *Carlton*, of the 21 of *Januarie*, 1618. wee read thus:

AS I had dictated thus far, I received direction from his Majeſtie to ſignifie to the State's-Commiſsioners here, That albeit their earneſt entreatie and his gracious conſideration of the preſent trouble of their Church and State, had moved his Majeſtie to conſent to delay the Treatie of the great Fiſhing, till the time craved by the Commiſsioners; yet underſtanding by new and freſh complaints of his Mariners and Fiſhers upon the Coaſts of Scotland, that within theſe four or five laſt-years, the Low Countrie-Fiſhers have taken ſo great advantages of his Majeſtie's Toleration, that they have grown nearer and nearer upon his Majeſtie's Coaſts year by year, than they did in preceding Times, without leaving any Bounds for the Countrie-People and Natives to Fiſh upon their Prince's Coaſts, and oppreſſed ſom of his Subjects of intent to continue their pretended poſſeſsion; and driven ſom of their great Veſſels through their Nets to deter others by fear of the like violence from Fiſhing near them, &c. His Majeſtie cannot forbear to tell them, that hee is ſo well perſwaded of the Equitie of the States, and of the Honorable reſpect they bear unto him, and to his Subjects for his ſake, that they will never allow ſo unjuſt and intolerable Oppreſsions; for reſtraint whereof, and to prevent the inconveniences which muſt enſue, upon the continuance of the ſame, his Majeſtie hath by mee deſired them to write to their Superiors to cauſ Proclamation to bee made, prohibiting any of their Subjects to Fiſh within fourteen miles of his Majeſtie's Coaſts this year, or in any time hereafter, until order bee taken by

Commiſsioners to bee autoriſed on both ſides, for a final ſettling of the main buſineſs. His Majeſtie hath likewiſe directed mee to command you from him, to make the like Declaration and Inſtance to the States *there, and to certifie his Majeſtie of their Anſwer, with what convenient ſpeed you may.*

Thus far Secretarie *Naunton* to the Ambaſſador.

Now what effect the Ambaſſador's Negotiation with the *States* had, appear's by a Letter of his from the *Hague*, of the 6 of *Februarie*, 1618. to King *James* himſelf; where, among other paſſages hee hath this:

I finde likewiſe in the manner of proceeding, that treating by way of Propoſition here, nothing can bee exſpected but their wonted dilatorie and evaſive Anſwers; their manner beeing to refer ſuch Propoſitions from the States General *to the States of* Holland. *The States of* Holland *take advice of a certain Council reſiding at* Delph, *which they call the Council of the* Fiſherie. *From them ſuch an Anſwer commonly com's, as may bee exſpected from ſuch an Oracle. The way therefore (under correction) to effect your Majeſtie's intent, is to begin with the Fiſhers themſelvs, by publiſhing, againſt the time of their going out, your reſolution, at what diſtance you will permit them to Fiſh, whereby they will bee forced to have recourſ to their* Council of Fiſherie; *that Council to the States of* Holland; *and thoſe of* Holland *to the States-General, who then in place of beeing ſought unto, will for contentment of their Subjects ſeek unto your* Majeſtie.

By theſe you may perceiv how earneſtly the antient Rights of *England* were aſſerted, and the old Claim made and renewed, and a recognition made alſo in the Reign of that King by the *Netherlanders* themſelvs, though all proved to no purpoſe, the King and his Coun-

Council beeing afterward lull'd again into a connivence one way or other. And it give's sufficient cauſ to ſuſpect, that the men in Power at that time might bee charm'd with monie; ſince it was a *Quære* put by the Prince of *Orange* to the Ambaſſador *Carlton*, in the heat of all the Controverſie, *Whether the Freedom of Fiſhing might not bee redeemed with a ſumme of monie?* For, turning over the Papers of Tranſactions of the Time immediately following, I perceiv the diſpute was let fall on a ſudden, and thereupon an opportunitie given the *Netherlanders*, to encroach more and more every year, upon the Seas and Shores of this Iſland. And ſo far they proceeded in this preſumptuous Courſ, through the Toleration given them in the later end of the Reign of King *James*, and the begining of the late *Tyrant* his ſon, that at length they fell to a downright impeachment of our Rights, not in words onely, but by contemning the commands of the King's Officers, prohibiting us free Commerce within our own Seas, abuſing and diſturbing the Subjects at Sea, and the King himſelf in his very Ports and Chambers; and by many other actions of ſo intolerable a nature, that in the year 1635 hee was awakened and conſtrained to ſee to the preſervation of our Rights at Sea, and give order for the ſetting forth of a powerful Fleet, to check the audacious deſigns and attempts of thoſe ungrateful Neighbors. And the following year, in proſecution of his purpoſe, hee ſet forth this enſuing *Proclamation*, entituled,

A Proclamation

For restraint of Fishing upon His Majestie's Seas and Coasts without LICENCE.

WHereas Our Father of Blessed memorie King James, did in the seventh year of His reign of Great Britain, set forth a Proclamation touching Fishing; Whereby for the many important reasons therein expressed, all persons, of What Nation or Qualitie soever (beeing not His natural born Subjects) were restrained from Fishing upon any the Coasts and Seas of Great Britain, Ireland, and the rest of the Isles adjacent, where most usually heretofore Fishing had been, until they had orderly demanded, and obtained Licences from Our said Father, or His Commissioners in that behalf, upon pain of such chastisement as should bee fit to bee inflicted upon such Wilful Offendors: Since Which time, albeit neither Our said Father, nor Our Self have made any considerable execution of the said Proclamation, but have With much patience expected a voluntarie conformitie of Our Neighbors and Allies, to so just and reasonable Prohibitions

ons and Directions as are contained in the ſame.

And now finding by experience, that all the inconveniences which occaſioned that Proclamation, are rather increaſed then abated: Wee beeing very ſenſible of the premiſſes, and Well knowing how far wee are obliged in Honor to maintain the rights of Our Crown, eſpecially of ſo great conſequence, have thought it neceſſarie, by the advice of Our Privie Council, to renew the aforeſaid reſtraint of Fiſhing upon Our aforeſaid Coaſts and Seas, Without Licence firſt obtained from Us, and by theſe preſents to make publick Declaration, that Our reſolution is (at times convenient) to keep ſuch a competent ſtrength of Shipping upon Our Seas, as may (by God's bleſſing) bee ſufficient, both to hinder ſuch further encroachments upon Our Regalities, and aſſiſt and protect thoſe Our good Friends and Allies, who ſhall henceforth, by virtue of Our Licences (to bee firſt obtained) endeavor to take the benefit of fiſhing upon Our Coaſts and Seas, in the places accuſtomed.

Given at Our Palace of VVeſtminſter *the tenth day of* May, *in the twelfth year of Our Reign of* England, Scotland, France, *and* Ireland.

This Proclamation beeing ſet forth in the year 1636. ſerved to ſpeak the intent of thoſe naval preparations made before in the year 1635. which were ſo numerous and well-provided, that our *Netherland*-Neighbors

bors beeing touched with the apprehenſion of ſom great deſign in hand for the Intereſt of *England* by Sea, and of the guilt that lay upon their own Conſciences, for their bold Encroachments, ſoon betrayed their Jealouſies and Fears, and in them a ſenſ of their offences, before ever the Proclamation was made publick: As I might ſhew at large (if it were requiſite) by certain Papers of a publick Character yet in beeing. But there is one, *Inſtar omnium*, which may ſerv in ſtead of all; and it is an acute Letter of Secretarie *Coke's*, that was written to Sir *William Boſwel*, the King's Reſident then at the *Hague*, the Original whereof is ſtill reſerved among the publick Papers: In which Letter, hee ſet's forth the Grounds and Reaſons of preparing that gallant Navie, with the King's reſolution to maintain the Right derived from his Anceſtors, in the Dominion of the Seas; and therefore I here render a true Copie of it, ſo far as concern's this buſineſs, as moſt pertinent to our purpoſe.

(SIR!)

BY your Letters and otherwiſe, I perceiv many jealouſies and diſcourſes are raiſed upon the preparations of his Majeſtie's Fleet, *which is now in ſuch forwardneſs, that wee doubt not but within this Month it will appear at Sea. It is therefore expedient both for your ſatisfaction, and direction, to inform you particularly what was the occaſion, and what is his Majeſtie's intention in this work.*

Firſt, wee hold it a principle not to bee denied, That the King of Great Britain *is a Monarch at Land and Sea to the full extent of his Dominions, and that it concerneth him as much to maintain his Soveraigntie in all the Britiſh Seas, as within his three Kingdoms: becauſ without that theſe cannot bee kept ſafe; nor hee preſerv his honor and due reſpect with*

with other Nations. But commanding the Seas, hee may cauſe his Neighbors and all Countries to ſtand upon their guard whenſoëver hee think's fit. And this cannot bee doubted that whoſoëver will encroach upon him by Sea, will do it by Land alſo, when they ſee their time. To ſuch preſumption Mare liberum *gave the firſt warning piece, which muſt bee anſwered with a defence of* Mare Clauſum: *not ſo much by Diſcourſes, as by the lowder Language of a powerful Navie, to bee better underſtood, when overſtrained patience ſeeth no hope of preſerving her Right by other means.*

The Degrees by which his Majeſtie's Dominion at Sea hath of later years been firſt impeached and then queſtioned, are as conſiderable as notorious.

Firſt, to cheriſh, and as it were to nurſ up our unthankful neighbors, Wee gave them leav to gather wealth and ſtrength upon our Coaſts, in our Ports, by our Trade and by our People. Then they were glad to invite our Merchant's *Reſidence with what privileges they would deſire. Then they offered to us even the Soveraigntie of their Eſtates, and then they ſued for Licence to fiſh upon the Coaſts, and obtained it under the Great Seal of* Scotland, *which now they ſuppreſs. And when thus by leav or by connivence, they had poſſeſſed themſelvs of our Fiſhings, not onely in* Scotland, *but in* Ireland *and* England, *and by our ſtaple had raiſed a great ſtock of Trade; by theſe means they ſo encreaſed their ſhipping and power at Sea, that now they endure not to bee kept at any diſtance: Nay, they are grown to that confidence to keep guards upon our Seas; and then to project an Office and Companie of Aſſurance for the advancement of Trade; and withal, prohibit us free commerce even within our Seas, and take our ſhips and goods, if wee conform not to their* Placarts. *What inſolencies and cruelties they have committed againſt us heretofore, in* Ireland, *in* Groënland, *and in the* Indies, *is too well known to all the world In all which, though our ſufferings and their wrong may ſeem forgotten, yet the great*

intereſt of his Majeſtie's honor, is ſtill the ſame, and will refreſh their Memories as there ſhall bee cauſ. For, though charitie muſt remit wrongs don to private men, yet the reflection upon the publick may make it a greater charitie to do Juſtice on crying crimes. All this notwithſtanding, you are not to conceiv that the work of this Fleet, is either revenge or execution of Juſtice for theſe great offences paſt, but chiefly for the future to ſtop the violent current of that preſumption whereby the Men of War and Free-booters of all Nations (abuſing the favor of his Majeſtie's peaceable and gratious Government, whereby hee hath permitted all his Friends and Allies, to make uſe of his Seas and Ports in a reaſonable and free manner, and according to his Treaties) have taken upon them the boldneſs, not onely to com confidently at all times into all his Ports and Rivers, but to conveie their Merchant's ſhips as high as his chief Citie, and then to caſt Anchor cloſe upon his Magazins, and to contemn the commands of his Officers, when they required a farther diſtance. But which is more intolerable, have aſſaulted and taken one another within his Majeſtie's Chamber, and within his Rivers, to the ſcorn and contempt of his Dominion and Power; and this beeing of late years an ordinarie practice which wee have endeavored in vain to reform by the waies of Juſtice and Treaties, the world I think will now bee ſatisfied, that wee have reaſon to look about us. And no wiſe man will doubt that it is high time to put our ſelvs in this Equipage upon the Seas, and not to ſuffer that Stage of action to bee taken from us for want of our appearance.

So you ſee the general ground upon which our Counſels ſtand. In particular, you may take notice, and publiſh as cauſ require's, That his Majeſtie by this Fleet intendeth not a Rupture with any Prince or State, nor to infringe any point of his Treaties; but reſolveth to continue and maintein that happie peace wherewith God hath bleſſed his Kingdom; and to which

all

all his Actions and Negotiations have hitherto tended, as by your own Instructions you may fully understand. But withal considering, that Peace must bee mainteined by the arm of power, which onely keep's down War by keeping up Dominion, his Majestie thus provoked, finde's it necessarie even for his own defence and safetie to re-assume and keep his antient and undoubted Right in the Dominion of these Seas, and to suffer no other Prince or State to encroach upon him, thereby assuming to themselvs or their Admirals, any Soveraign command: but to force them to perform due homage to his Admirals and Ships, and to pay them acknowledgments, as in former times they did. Hee will also set open and protect the free Trade both of his Subjects and Allies: And give them such safe Conduct and Convoie, as they shall reasonably require. Hee will suffer no other Fleets or Men of War to keep any guard upon these Seas, or there to offer violence or take prizes or booties, or to give interruption to any lawful intercourse. In a word, his Majestie is resolved, as to do no wrong, so to do Justice both to his Subjects and Friends, within the limits of his Seas. And this is the real and Roial design of this Fleet, whereof you may give part as you finde occasion to our good neighbors in those parts, that no Umbrage may bee taken of any hostile act or purpose to their prejudice in any kinde. So wishing you all health and happiness, I rest

Your assured friend

Whitehall,
16 *April.* 1635.
our style.

and Servant,

JOHN COOK.

In this Letter you ſee firſt, how it was held for an undeniable principle, that the King was King by Sea as well as by Land; That neither the honor nor ſafetie of this Iſland and *Ireland* could bee maintained, but by preſerving the Dominion by Sea; and that it is an argument, that they that encroach upon us by Sea, will do it alſo by Land when they ſee their time. Hee declare's alſo, how our unthankful neighbors are riſen to this hight and inſolence, partly by grant, partly by connivence, but principally through their many injurious abuſes of our Patience and Indulgence. And laſtly, you may obſerv here what reſolutions were then taken to prevent the like injuries, and preſerv our *Engliſh* Intereſt in time to com. But how thoſe Reſolutions were followed in the ſucceeding part of his Reign, I ſhall not ſtand to examine; onely it ſufficeth here to take notice, that the Claim of Sea-Dominion was made by him, as well as by his Father, and for a time ſtrenuouſly aſſerted; though afterward hee ſlackned his hand in the proſecution; whereof the *Netherlanders* taking advantage, and of our late commotions (which were their *Halcyon*-daies, and time of Harveſt) are now advanced to ſuch a monſtrous pitch of pride, malice, and ingratitude, that they dare bid defiance to thoſe antient Rights which wee have received from all Antiquitie, and juſtifie their actions by a moſt unjuſt and bloudie war, in the view of all the world. What remain's then, but that the Parlament and People of *England* ſhould lay theſe things to heart, with an indignation anſwerable to ſo prodigious violations and invaſions? They have now an opportunitie and ſtrength given them by God (O let not hearts bee wanting!) to make good the Claim, and accompliſh that work of eſtabliſhing our Intereſts by Sea, beyond the poſsibilitie of

of future impeachments. Let it not bee ſaid, that *England*, in the ſtate of *Monarchie*, was able to hold the Soveraigntie of the Seas ſo many hundred years, and then loſt it in the ſtate of *Libertie*. It is, as now eſtabliſhed with its Appendants, the greateſt and moſt glorious Republick, that the Sun ever ſaw, except the *Roman*. God hath made it ſo by Land, and will by Sea; for, without this, the Land is nothing. It was ever ſo apprehended by Kings, yea by the laſt and worſt of our Kings: And ſhall the Founders of this famous ſtructure of Government now in beeing, who have caſhiered Kings, and vindicated the Rights and Liberties of this Nation upon his head and his whole poſteritie and partie, not aſſert them againſt perfidious Neighbors? It were unpardonable in any to harbor a thought of that nature, or to yield that ſuch a blemiſh ſhould bee brought upon all thoſe glorious actions and atchievments, whereby God hath freed and innobled our Land and Nation.

But that the people of *England* may bee excited to a valuation, maintenance, and improvement of their intereſt by Sea, it is neceſſarie to let them underſtand what advantages are to bee made thereby, and are made by others, who of *Uſufructuaries* by permiſsion, have in deſign now to make themſelvs abſolute Lords of the Fee. And therefore it is very convenient here to ſet down an excellent Diſcourſ which was written in the time of the late King, and preſented by the following Title.

The inestimable Riches, and Commodities, of the British *Seas.*

THE Coast of Great *Britain* do yield such a continual Sea-harvest of gain, and benefit to all those that with diligence do labor in the same, that no time or season in the year passeth away without som apparent means of profitable imploiment, especially to such as apply themselvs to Fishing, which from the beginning of the year unto the latter end, continueth upon som part or other upon our Coasts, and therein such infinite sholes and multitudes of Fishes are offered to the takers as may justly move admiration, not onely to strangers, but to those that daily bee imploied amongst them.

The Summer-Fishing for Herring, beginneth about *Midsommer*, and lasteth som part of *August*.

The Winter-Fishing for Herring, lasteth from *September* to the mid'st of *November*, both which extend in place from *Boughones* in *Scotland*, to the Thame's mouth.

The Fishing for Cod at *Alamby Whirlington*, and *White Haven*, near the Coast of *Lancashire*, from *Easter* until *Whitsontide*.

The Fishing for Hake at *Aberdenie*, *Abveswhich*, and other places between *Wales* and *Ireland*, from *Whitsontide* to Saint *James tide*.

The Fishing of Cod and Ling, about *Padstow*, within the Land, and of *Severn* from *Christmas* to Mid-*Lent*.

The Fishing for Cod on the West part of *Ireland* frequented by those of *Biscay*, *Galicia*, and *Portugal*, from the begining of *April* until the end of *June*.

The

The Fiſhing for Cod and Ling on the North, and North-Eaſt of *Ireland*, from *Chriſtmas* until *Michaëlmas.*

The Fiſhing for Pilchers on the Weſt coaſt of *England* from Saint *James*-tide until *Michaëlmas.*

The Fiſhing for Cod, and Ling upon the North-Eaſt of *England*, from *Eaſter* until *Midſummer.*

The Fiſhing of great Staple-Ling and many other ſorts of Fiſh lying about the Iſland of *Scotland*, and in the ſeveral parts of the *Britiſh* Seas all the year long.

In *September*, not many years ſince upon the Coaſt of *Devonſhire* near *Minigal*, 500 Ton of Fiſh were taken in one day. And about the ſame time three thouſand pound worth of Fiſh in one day were taken at St *Ives* in *Cornwal* by ſmall Boats, and other poor proviſions.

Our five-men-Boats, and cobles adventuring in a calm to launch out amongſt the *Holland* Buſſes, not far from *Robinhood's* Bay returned to *Whitbie* full fraught with Herrings, and reported that they ſaw ſom of thoſe Buſſes take ten, twentie, twentie four laſts, at a draught, of Herrings, and returned into their own Countrie with fortie, fiftie, and an hundred Laſts of Herrings in one Buſs.

Our Fleet of Colliers not many years ſince returning from *New-caſtle*, laden with Coals about the Well, near *Flanborough* head, and *Scarborough*, met with ſuch multitudes of Cod, Ling and Herring, that one amongſt the reſt with certain ſhip-hooks, and other like inſtruments, drew up as much Cod, and Ling in a little ſpace of time, as were ſold well near for as much as her whole Lading of Cole. And many hundred of ſhips might have been there laden in two daies and two nights.

Out of which wonderful affluence, and abundance of

of Fiſh ſwarming in our Seas, that wee may the better perceiv the infinite gain which Forein Nations make, I will eſpecially inſiſt upon the Fiſhing of the *Hollanders* in our Coaſts, and thereby ſhew how by this means principally they have increaſed.

1. *In Shipping.*

2. *In Mariners.*

3. *In Trade.*

4. *In Towns and Fortifications.*

5. *In Power extern or abroad.*

6. *In publick Revenue.*

7. *In private wealth.*

8. *In all manner of Proviſions, and ſtore of things neceſſarie.*

1.

Encreaſ of Shipping.

BEſides 700 Strand-Boats, 400 Evars, and 400 Sullits, Drivers and Tod-boats, wherewith the *Hollanders* fiſh upon their own Coaſts, every one of thoſe imploying another Ship to fetch ſalt, and carrie their Fiſh into other Countries, beeing in all 3000 ſail, maintaining and ſetting on work at leaſt 4000 perſons, Fiſhers, Tradeſmen, Women, and Children; They

have 100 Doyer Boats, of 150 Tuns a piece, or thereabouts, 700 Pinks and Well-Boats from 60 to 100 Tuns a piece, which altogether fiſh upon the Coaſts of *England* and *Scotland* for Cod, and Ling onely. And each of theſe employ another Veſſel for providing of ſalt, and tranſporting of their Fiſh, making in all 1600 ſhips, which maintain and employ perſons of all ſorts, 4000 at leaſt.

For the Herring-ſeaſon, they have 1600 Buſſes at the leaſt, all of them Fiſhing onely upon our Coaſts from *Boughonneſs* in *Scotland* to the mouth of *Thames*. And every one of theſe maketh work for three other ſhips that attend her; the one to bring in ſalt from Forein parts, another to carrie the ſaid ſalt, and cask to the Buſſes, and to bring back their Herrings, and the third to tranſport the ſaid Fiſh into Forein Countries. So that the total number of ſhips and Buſſes plying the Herring-Fair, is 6400; whereby every Buſs, one with another, imployeth fortie men, Mariners and Fiſhers within her own hold, and the reſt ten men a piece, which amounteth to 112000 Fiſhers and Mariners. All which maintain double, if not treble ſo many Tradeſmen, Women, and Children a land.

Moreover, they have 400 other Veſſels at leaſt, that take Herring at *Yarmouth*, and there ſell them for readie monie: ſo that the *Hollanders* (beſides 300 ſhips before-mentioned fiſhing upon their own ſhores) have at leaſt 4800 ſhips onely maintained by the Seas of Great *Britain*, by which means principally *Holland* beeing not ſo big as one of our ſhires of *England*, containing not above 28 miles in length, and three in breadth, have encreaſed the number of their ſhipping to at leaſt *ten thouſand ſail*, beeing more then are in *England*, *France*, *Spain*, *Portugal*, *Italy*, *Denmark*, *Poland*, *Sweden*, and

Ruſsia. And to this number they add every day; although their Countrie it ſelf afford's them neither materials or victual, nor merchandiſe to bee accounted of towards their ſetting forth.

Beſides theſe of *Holland*, *Lubeck* hath 700 great ſhips, *Hamborough* ſix hundred, *Embden* fourteen hundred, whereunto add the ſhips of *Bremer*, *Biſcay*, *Portugal*, *Spain*, and *France*, which for the moſt part fiſh in our Seas, and it will appear that ten thouſand ſail of Forein Veſſels and above are employed and maintained by fiſhing upon our Coaſts. So that in *Holland* there are built a thouſand ſail at the leaſt to ſupply ſhipwracks, and augment their ſtore, which as the Prince, and common Nurſerie, is the chiefeſt means onely to encreaſ their number.

2.

Encreaſ of Mariners.

THE number of ſhips fiſhing on our Coaſts, as beeing aforeſaid 8400. If wee allow but twentie perſons to every ſhip one with another, the total of Mariners and Fiſhers, amounteth to 168000, out of which number they daily furniſh their longer Voiages to all parts of the world; for by this means they are not onely enabled to brook the Seas, and to know the uſe of the tackles and compaſs, but are likewiſe inſtructed in the principles of Navigation, and Pilotage, inſomuch as from hence their greateſt Navigators have had their education and breeding.

3. *Encreaſ*

3.
Encreaſ of Trade.

BY reaſon of thoſe multitude of Ships and Mariners, they have extended their Trade to all parts of the world, exporting for the moſt part in all their Voiages our Herring, and other Fiſh for the maintenance of the ſame. In exchange whereof they return the ſeveral commodities of other Countries.

From the Southern parts, as *France*, *Spain*, and *Portugal*, for our Herrings they return Oils, Wines, Prunes, Honie, Wools, &c. with ſtore of Coin *in Specie*.

From the Straits, Velvets, Sattins, and all ſorts of Silks, Alums, Currans, Oils, and all Grocerie-ware, with much monie.

From the Eaſt-Countries for our Herrings, and other *French* and *Italian* commodities before returned, they bring home Corn, Wax, Flax, Hemp, Pitch, Tar, Sope-Aſhes, Iron, Copper, Steel, Clap-board, Wainſcot, Timber, Deal-board, Dollers, and *Hungarie*-Gilders.

From *Germanie*, for Herrings, and other ſalt Fiſh, Iron, Steel, Glaſs, Mil-ſtones, Rheniſh wines, Button-plate for Armor, with other Munition, Silks, Velvets, Raſhes, Fuſtians, Baratees, and ſuch like *Franckford*-commodities, with ſtore of Rix-dollers.

From *Brabant* they return for the moſt part readie monie with ſom Tapeſtries, and Hull-ſhop. Yea, ſom of our Herring are carried as far as *Braſeil*.

And that which is more ſtrange and greatly to our ſhame, they have four hundred Ships with Fiſh, which our men of *Yarmouth*, within ken almoſt at land do vent our Herrings amongſt us here in *England*, and make us pay for the Fiſh taken upon our own Coaſt readie

monie, wherewith they ſtore their own Countrie.

4.

Encreaſ of Towns and Forts.

BY this their large extent of Trade, they are becom as it were Citizens of the whole world, whereby they have ſo enlarged their Towns, that moſt of them within theſe four hundred years are full as great again as they were before; *Amſterdam*, *Leyden*, and *Middleburgh* having been lately twice enlarged and their ſtreets and buildings ſo fair, and orderly ſet forth, that for beautie and ſtrength, they may compare with any other in the world, upon which they beſtow infinite ſummes of monies, all originally flowing from the bountie of the Sea, from whence, by their labor and induſtrie, they derive the begining of all that wealth and greatneſs, and particularly for the Havens of the aforeſaid Towns whereof ſom of them coſt fortie, fiftie, or an hundred thouſand pound. Their Fortifications alſo both for number, and ſtrength, upon which they have beſtowed infinite ſummes of monie, may compare with any other whatſoëver.

5.

Encreaſ of power abroad.

SUch beeing then the number of the Ships and Mariners, and ſo great their Trade, occaſioned principally by their Fiſhing; they have not onely ſtrengthned, and fortifieed themſelvs at home to repel all Forein Invaſions, as lately in the war between them and *Spain*; but have likewiſe ſtretched their power into

into the Eaſt and Weſt-Indies, in many places where-of they are Lords of the Sea-Coaſts, and have likewiſe fortified upon the main, where the Kings and people are at their devotion. And more then this, all Neighbor-Princes, in their differences, by reaſon of this their power at Sea, are glad to have them of their partie. So that, next to the Engliſh, they are now becom the moſt re-doubted Nation at Sea of any other whatſoêver.

6.
Encreaſ of publick Revenue.

MOreover how mightie the publick Revenue, and Cuſtoms of that State are encreaſed by their fiſhing, may appear in that above thirtie years ſince, over and above the Cuſtoms of other Merchandiſe, Exciſes, Licences, Waſtage, and Laſtage, there was paid to the State, for Cuſtom of Herring, and other ſalt-Fiſh, above three hundred thouſand pound in one year, beſides the tenth Fiſh, and Cask paid for Waſtage, which cometh at the leaſt to as much more among the *Hollanders* onely, whereunto the tenth of other Nations beeing added, it amounteth to a far greater ſumme.

Wee are likewiſe to know, that great part of their Fiſh is ſold in other Countries for readie monies, for which they commonly export of the fineſt gold, and ſilver, and coming home recoin it of a baſer allay, under their own ſtamp, which is not a ſmall means to augment their publick treaſure.

7.

Encreaſ of private Wealth.

AS touching their private wealth, if wee conſider the abundant ſtore of Herrings, and other fiſh by them taken, and the uſual prices that they are ſold for, as alſo the multitude of Tradeſmen and Artizans, that by reaſon of this their Fiſhing are daily ſet on work, wee muſt needs conclude that the gain thereof made by private men muſt of neceſsitie bee exceeding great, as by obſerving the particulars following will plainly appear.

During the wars between the King of *Spain*, and the *Hollanders* before the laſt Truce, *Dunkirk* by taking, ſpoiling, and burning the Buſſes of *Holland*, and ſetting great ranſom upon their Fiſher-men, enforced them to compound for great ſummes that they might Fiſh quietly for one year, whereupon the next year after the Fiſher-men agreed amongſt themſelvs to pay a doller upon every laſt of Herrings, towards the maintenance of certain Ships of War to waft and ſecure them in their Fiſhing, by reaſon whereof there was a Record kept of the ſeveral laſts of Herrings taken that year, and it appeared thereby that in one half year there were taken thirtie thouſand laſts of Herrings which at twelv pound *per* laſt, amounteth to 360000*o*, and at ſixteen, twentie, thirtie pound the laſt, they are ordinarily ſold, then tranſported into other Countries, it cometh at leaſt to 5000000 *l.* Whereunto if wee add the Herrings taken by other Nations together with the Cod, Ling, Hake, and the Fiſh taken by the *Hollanders*, and other our neighbors upon the

Britiſh

Britiſh Coaſts all the year long, the total will evidently ariſe to bee above 10000000 l.

The great Trade of Fiſhing imploying ſo many men and ſhips at Sea, muſt likewiſe neceſſarily maintain as great a number of Tradeſmen, and Artizens on Land, as Spinners, and Hemp-winders to Cables, Cordage, Yarn-twine for Nets and Lines, Weavers to make Sail-Cloaths, Cecive Packers, Tollers, Dreſſers, and Cowchers to ſort and make the Herring lawful merchandiſe. Tanners to tan their Sails and Nets; Coopers to make Cask, Block, and Bowl-makers for ſhips, Keel-men, and Laborers for carrying and removing their Fiſh, Sawyers for Planks, Carpenters, Ship-wrights, Smiths, Car-men, Boat-men, Brewers, Bakers, and a number of others, whereof many are maimed perſons, and unfit to bee otherwiſe imploied. Beſides the maintenance of all their ſeveral wives, and children, and families. And further every man and maid-ſervant, or Orphant, having any poor ſtock, may venture the ſame in their Fiſhing-Voiages, which afford's them ordinarily great encreaſ, and is duly paid according to the proportion of their gain.

8.

Encreaſ of Proviſions.

AND to conclude, it is manifeſt that *Holland* only affording in it ſelf ſom few Hops, Madders, Butter and Cheeſ aboundeth notwithſtanding (by reaſon of this Art of Fiſhing) in plentiful manner with all kinde of proviſions as well for life, as in Corn, Beef, Muttons, Hides, and Cloaths,

Cloths; as for luxury, in Wines, Silks and Spices; and for defence, as in Pitch, Tar, Cordage, Timber. All which they have not onely in competent proportion for their uſe, but are likewiſe able from their ſeveral Magazines to ſupply their Neighbor-Countries.

The premiſſes conſidered, it maketh much to the ignominie and ſhame of our Engliſh Nation, that God and Nature offering us ſo great a treaſure even at our own doors, wee do notwithſtanding neglect the benefit thereof, and, by paying monie to ſtrangers for the Fiſh of our own Seas, impoveriſh our ſelvs to make them rich. Inſomuch that for want of induſtrie and care in this particular two hundred twentie five Fiſher-Towns are decaied and reduced to extreme povertie; whereas on the contrarie by diligent endevoring to make uſe of ſo great a bleſsing, wee might in ſhort time repair theſe decaied Towns of the Kingdom, and add both honor, ſtrength, and riches to our King and Countrie, which how eaſily it may bee don, will appear by ſom few obſervations following.

By erecting two hundred and fiftie Buſſes of reaſonable ſtrength and bigneſs, there will bee emploiment made for a thouſand Ships, and for at leaſt ten thouſand Fiſher-men and Mariners at Sea, and conſequently for as many Tradeſmen and Laborers at land.

The Herrings taken by the Buſſes will afford his Majeſtie two hundred thouſand pound yearly cuſtom outward, and for commodities returned inward thirtie thouſand pound and above.

Wee have Timber ſufficient, and at reaſonable rates, growing in our own Kingdom for the build-

ing

ing of Buſſes, every Shire affordeth hardie and able men fit for ſuch emploiment who now live poorly and idle at home.

Wee have victuals in great plentie ſold at eaſie rates without paiment of Exciſes, or Impoſt.

Our ſhores and harbors are near the places where the Fiſh do haunt.

For drink, or nets, ſalting and packing our Fiſh; and for ſuccor in ſtreſs of weather, wee may bring our Fiſh to land, ſalt and pack it, and from ſom part of his Majeſtie's Dominions bee at our Markets in *France*, *Spain*, or *Italy*, before the *Hollanders* can arrive in *Holland*.

Wee have means to tranſport our Fiſh into ſom Northern Countries, where the *Hollanders* ſeldom or never com. And though wee had as many Buſſes as the *Hollanders*, yet is there vent for all, or more, for in the Eaſt and Northern Countries, and in many other places, Herrings are every daies meat, Winter and Summer, as well to draw on drink, as to ſatisfie hunger, and in moſt places the greateſt part of the year they bee ſcarce to bee had; for preſently after *Michaël-mas* the Sound and Rivers are frozen up ſo as no Herrings can bee tranſported into twentie ſeveral Kingdoms, and free States until *July*, which is for thirtie weeks ſpace together, ſo that when Lent com's, there are few to bee bought for monie.

Laſtly, ſince by care and induſtry wee gained from the *Flemmings*, doubtleſs ſo by the means wee may as eaſily grow expert in the Art of Fiſhing, and in time make it a ſtaple-commoditie of our own.

But this wee ſhall the better and ſooner do, if wee

conſider and endeavor to reform certain wants and abuſes which hitherto have hindred us from effecting that good and great work, whereof theſe that follow are none of the leaſt.

1. General libertie of eating fleſh contrarie to old cuſtom, and the Statute-Laws provided for obſerving Fiſh-daies, from whence our ſcarcitie and dearth of Fiſh proceedeth; for where Fleſh is ordinarily ſpent, Fiſh will not bee bought, and want of ſale decaieth all Trade, gain beeing the Nurſ of Induſtrie.

2. Want of order and diſcretion in our Fiſhing, every man beeing left to himſelf and permitted to Fiſh as beſt liketh him: whereas amongſt the *Hollanders* two of the beſt experienced Fiſher-men are appointed to guide the reſt of the Fleet, all others beeing bound to follow them, and to caſt their lines according to their direction.

3. The *Hollanders* and other Nations ſet forth with their Buſſes in *June*, to finde the ſhole of Fiſh, and having found it, dwell amongſt it till *November*, whereas wee ſtay till the Herring com home to our rode-ſteads, and ſomtimes ſuffer them to paſs by ere wee look out, our Herring-Fiſhing conteining onely ſeven weeks at the moſt, and theirs twentie.

4. The *Hollander's* Buſſes are great and ſtrong, and able to brook foul weather, whereas our Cobles, Crayers, and Boats beeing ſmall, and thin ſided, are eaſily ſwallowed by a rough Sea, not daring to adventure far in fair weather by reaſon of their weakneſs for fear of ſtorms.

5. The

5. The *Hollanders* are induſtrious, and no ſooner are diſcharged of their lading, but preſently put forth for more, and ſeek for Markets abroad as well as at home; whereas our *Engliſh* after they have been once at Sea, do commonly never return again until all the monie taken for their fiſh bee ſpent, and they in debt ſeeking onely to ſerv the next Market.

6. The *Hollanders* have certain Merchants, who, during the Herring-ſeaſon do onely com to the places where the Buſſes arrive, and joining together in ſeveral companies, do preſently agree for the lading of thirtie or fortie Buſſes at once, and ſo beeing diſcharged, they may ſpeedily return to their former ſhipping; whereas our Fiſher-men are uncertain of their Chap-men, and forced to ſpend much time in putting off their Fiſh by parcels.

Theſe and other defects would carefully bee taken into conſideration, and certain orders made to make our Fiſhing proſperous, and ſucceſsful, eſpecially conſidering the fearful miſchiefs the neglect hereof hath brought to the King and Kingdom in general, and to many good Towns and Corporations in particular, as by autoritie even of Parlament it ſelf in the Statute of 33 *Hen.* the eight, is plainly teſtified, which I have ſummarily here ſet down, to avoid the prolixitie of the original.

Becauſ the Engliſh Fiſher-men dwelling on the Sea-Coaſts did leav off their Trade of Fiſhing in our Seas, and went the half-Seas over, and there upon the Seas did buie Fiſh of *Pickards*, *Flemmings*, *Normans*, and *Zelanders*, by reaſon whereof many

incommodities did grow to the Realm, *viz.* the decaie of the wealth and prosperitie as well of the Cinque-Ports, and Members of the same, as of other Coast-Towns by the Sea-side, which were builded, and inhabited by great multitudes of people by reason of using and exercising the craft and feat of Fishing. Secondly, the decaie of a great number of Boats and Ships. And thirdly, the decaie of many good Mariners, both able in bodie by their diligence, labor, and continual exercise of Fishing, and expert by reason thereof in the knowledg of the Sea-Coasts, as well within this Realm as in other parts beyond the Seas. It was therefore enacted, that no manner of persons Englisli, Denizens, or strangers at that time, or any time after dwelling in *England*, should buie anie Fish of any strangers in the said Ports of *Flanders*, *Zealand*, *Picardie*, *France*, or upon the Sea between shore and shore, &c.

This act by many continuances was continued from Parlament to Parlament, until the first of Queen *Marie*, and from thence to the end of the next Parlament, and then expired.

For conclusion, seeing, by that which hath formerly been declared, it evidently appeareth, that the Kings of *England*, by immemorable prescription, continual usage, and possession, the acknowledgment of all our Neighbor-States, and the Municipal Laws of the Kingdom, have ever held the Soveraign Lordship of the Seas of *England*, and that unto his Majestie, by reason of his Soveraigntie, the supreme command and Jurisdiction over the passage, and Fishing in the same rightfully apperteineth,

perteineth; conſidering alſo the natural ſite of thoſe our Seas that interpoſe themſelvs between the great Northern Commerce of that of the whole world, and that of the Eaſt, Weſt, and Southern Climates, and withal the infinite commodities that by Fiſhing in the ſame is daily made; It cannot bee doubted, but his Majeſtie, by means of his own excellent wiſdom and virtue, and by the induſtrie of his faithful ſubjects and people, may eaſily, without injuſtice to any Prince or perſon whatſoever, bee made the greateſt Monarch for Command and Wealth, and his people the moſt opulent and flouriſhing Nation of any other in the world. And this the rather, for that his Majeſtie is now abſolute Commander of the Britiſh Iſle, and hath alſo enlarged his Dominions over a great part of the Weſtern *Indies*; by means of which extent of Empire, (croſsing in a manner the whole Ocean) the Trade and perſons of all Nations (removing from one part of the world to the other) muſt of neceſsitie firſt, or laſt, com within compaſs of his power and juriſdiction.

And therefore the Soveraigntie of our Seas, beeing the moſt precious Jewel of his Majeſtie's Crown, and (next under God) the principal means of our Wealth and Safetie, all true Engliſh hearts and hands are bound by all poſsible means and diligence to preſerv and maintain the ſame, even with the uttermoſt hazzard of their lives, their goods and fortunes.

Thus you ſee what wondrous advantages may redound to the Felicitie, and Glorie of this Nation, if God give hearts and reſolutions to vindicate thoſe rights

which are now moſt impiouſly and injuriouſly invaded. And ſo much for what concern's *England.*

Now that I may reflect a little upon the point of Sea-Dominion in general, to ſhew how far it hath been aſſerted, and mainteined by others, who have enjoied a Dominion in other Seas, when they have been concerned in the like Caſe with *England*, having their Soveraigntie at Sea impeached and queſtioned by encroaching neighbors; it was thought meet here to annex an ingenious and learned Plea touching the Dominion of the Sea; which was very ſuccinctly written in *Italian,* but faithfully rendred in Engliſh by an honorable Member of this Common-wealth, and publiſhed ſom time ſince, under the following Title.

Dominium

Dominium Maris:
OR, THE
DOMINION
OF THE
SEA.

Expreſsing the Title, which the *Venetians* pretend unto the ſole dominion, and abſolute Sovereigntie of the *Adriatick Sea*, commonly called

The Gulf of Venice.

Manifeſted in a Pleading or Argument, betwixt the Republick of *Venice*, and the Emperor *Ferdinand*.

Whereby is ſufficiently proved, That the Sea as well as the Land, is liable to the Laws of Proprietie, and may bee brought under the juriſdiction and protection of particular Princes and States. Contrarie to the Aſſertion of thoſe, who affirm, the Sea to be free, and under the Dominion of no man.

Tranſlated out of Italian.

LONDON,
Printed by *William Du Gard*. *An. Dom.* 1652.

AN ADVERTISEMENT TO THE READDER.

I Thought it fitting not to instruct, but rather to remember the Reader, that this Sea, over which the Venetians challenge Sovereigntie and Dominion, beeing commonly called the Gulf, is nothing elſ but a large Bay or inlet of the Sea, which entering in betwixt two lands, and ſevering them for many miles countinuance, in the end receiv's a ſtop or interruption of further paſſage, by an oppoſite ſhore, which join's both the ſaid lands together. It is called the Gulf of Venice, from the Citie of Venice, ſituated upon certain broken Iſlands near unto the bottom thereof. It is alſo called the Adriatick Sea, from the antient Citie of Adria, lying not far

distant from the former. From the entrance thereof unto the bottom, it contein's in length about 600 *Italian miles: where it is broadest, it is* 160 *miles over, in others but* 80, *in the most* 100. *The southwest shore of it is bounded by the Provinces of* Puglia, *and* Abruzzo *in the Kingdom of* Naples, *the Marquisate of* Ancona *and* Romagnia *in the Pope's State, and the Marquisate of* Trevisana *in the* Venetian *State. The North part of it, or bottom, hath* Friuli *for it's bounds, the North-East is limited by* Istria, Dalmatia, Albania, *and* Epirus: *whereof* Istria *doth not so entirely belong unto the* Venetians, *but that the Arch-Duke of* Gratz, *of the Austrian family, who at this present is Emperor, doth possess divers Maritim Towns therein. In* Dalmatia, *saving* Zara, Spalato, *and* Cattaro, *they have nothing of importance, the rest belonging to the Republick of* Ragusa, *and to the Turks. In* Albania *and* Epirus, *they possess nothing at all, it beeing entirely the Turk's. So that hee, who shall examine the circuit of this Sea, which must contein above* 1200 *miles, shall finde the shores of the* Venetian *signorie, not to take up intire* 200 *of them, omitting som scatter'd towns and dispersed Islands, lying on the Turkish side of the Adriatick*

shore.

ſhore. For the ſecuring hereof from the depredation of Pirates, and the pretenſes of divers Potent Princes, as the Pope, Emperor, King of Spain, *and the great Turk, who have each of them large territories lying thereupon; alſo to cauſ all ſuch ſhips, as navigate the ſame, to go to* Venice, *and there to pay cuſtom and other duties, the Republick maintein's continually in action a great number of ſhips, gallies and galliots, whereto they alſo add more, as there may bee occaſion, whereof ſom lie about the bottom of the Gulf in* Iſtria, *others about the Iſlands of* Dalmatia, *to clear thoſe parts of Pirates, who have much infeſted thoſe ſeas: others, and thoſe of moſt force, have their ſtations in the Iſland of* Corfu, *and in that of* Candia: *in the firſt of which commonly reſide's the Captain of the Gulf, whom they call by the name of* Proveditor, *or* Proviſor general, *whoſe office it is to ſecure the Navigation of the Gulf not onely from the* Corſari *or Pirates, but to provide that neither the Gallies nor Ships of the Pope, the King of* Spain, *or great Turk, do ſo much as enter the ſame, without permiſſion of the* Signorie, *or Republick, and upon ſuch conditions as beſt pleaſeth them; which they are ſo careful to effect, that in the year* 1638 *the Turkiſh Fleet entring*

the Gulf without licence, was assailed by the Venetian General, who sunk divers of their vessels, and compelling the rest to flie unto Valona, *hee held them there besieged, although the same Citie, and Port whereon it stand's, bee under the jnrisdiction of the Grand Signor. And notwithstandiug that a great and dangerous war was likely to ensue thereupon, betwixt the Grand-Signor and the Republick, becaus the Venetian General, beeing not content to have chased them into their own Ports, did moreover then that, sink their vessels, and landing his men, slew divers of their Mariners who had escaped his furie at Sea: yet after that a very honorable peace was again concluded betwixt them, wherein, amongst other things, it was agreed, that it should bee lawful for the* Venetians, *as often as any Turkish vessels did without their licence enter the Gulf, to seiz upon them by force, if they would not otherwise obey. And that it should likewise bee lawful for them so to do, within any Haven, or under any Fort of the Grand-Signor's, bordering on any part of the Venetian Gulf. Out of all which, when I considered the real and absolute Sovereigntie, which this Republick doth actually enjoy over this sea, which they have ever defended, as well by the sword as*

the

the pen; and withal how that ſom neighboring Nations of late years, did ſeem to envie the title of England *to the narrow ſeas, affirming in ſom of their writings, the* Sea to bee free; *that* it neither ought, nor could bee under the juriſdiction of any; *that* it was a wilde beaſt which could not bee ruled; *that,* poſſeſsio *beeing* Pedis poſitio, *there* could no poſſeſsion bee either taken or kept of it; *that* the limits thereof, beeing a fluent element, could not bee ſcored out, *or* certainly determined, *that* it was as free for all mankinde to uſe, and as common as the aër, *with many other things to that purpoſe; I chancing ſom years paſt to bee at* Venice, *upon conſideration of the premiſſes, did labor with a great deſire, to know the grounds of that title, whereupon the* Venetians *founded their* Dominion of the Sea; *and after much ſearch, even to the deſpair of obteining of it, I hapned upon this enſuing argument, conteining a* Plea *or* Diſpute, *betwixt the* Auſtrians *and* Venetians, *touching the* Dominion of the Adriatick Sea, *not fictitious or deviſed onely to color the cauſ, but faithfully tranſcribed from out the publick Regiſters of that Citie, which I offer herewith to the Reader in Engliſh, and withal theſe two conſiderations,* First,

First, *that hereby it will appear, that the Common-wealth of* England's *challenge to the Dominion of the Sea, is neither a Noveltie or singularitie; especially, when it is besides most apparant that the King of* Denmark, *doth not onely pretend to the Sovereigntie of the Sound, but causeth all such Ships as pass through it, to pay what toll hee pleaseth. The great Turk prohibit's all Nations, saving his own Vassals, to enter the black Sea, or* Pontus Euxinus; *the like hee doth to the red Sea, which contein's at the least* 1200 *miles in length, beginning from the streits of* Babelmandel, *which give's entrance thereinto, and ending at the Town of* Sues, *which is seated at the bottom thereof. The King of* Portugal *opposeth, to the utmost of his power, any, but his own subjects to sail into the East-Indies, affirming those Seas to bee intirely under his dominion, as well by Conqueſt, as the Pope's donation, insomuch as the smallest vessel, even of the natives of those parts, cannot sail from Port to Port, without the pass-port of the* Vice-Roy of Goa, *or of som other by him deputed thereto, styling himself, amongst others his Titles, to bee King of the Conqueſt, Navigation, and Commerce, or Traffick of* Æthiopia, Arabia, Persia, India, *&c. which hath*

hath been hitherto so punctually observed, as no Castilian, *or Spaniard, might at any time, or for any occasion, sail into the East-Indies, though both those Nations were for many years together united under one King.*

Secondly, *if the Dominion of these Seas do truely and properly belong to the Commonwealth of* England (*as hath been so sufficiently cleared and proved to the whole world, by that learned Book entituled* Mare Clausum) *why may not, or ought not the People of* England, *by all lawful waies procure, that the Dominion of these Seas that so justly appertein's unto them, may bee secured from any force, violence, or opposition, how great soever, of their most powerful neighbors; whenas wee see the* Venetians *to bee so jealous in preservation of the title they pretend to their Seas, as rather then to suffer it to bee in the least sort questioned, they do upon all occasions oppose themselvs by force, or otherwise, against the most potent Princes of* Europe *and* Asia. *Vale.*

Dominium Maris:

OR,

THE DOMINION OF THE SEA.

AFter a long peace, betwixt the Progenitors of the Emperor *Maximilian* the first, and the Republick of *Venice*, in the year 1508, there began certain slight differences, which concluded in a notable, and most memorable war: insomuch as the Republick, for 22 years following, were with the said Prince, and with his Posteritie, for divers respects, somtimes in war, somtimes in peace, and somtimes in truce,

truce, until in the year 1529 all differences betwixt them were compoſed, and a peace concluded in *Bolonia*, which continued all that Age, with the Emperor *Charls* the Fifth, together with his brother *Ferdinando* King of *Hungarie*, and Archduke of *Auſtria*. But becauſ by the diviſion, made betwixt the ſaid brethren, ſeven years before, all the *Auſtrian* lands which confined with the *Venetians*, were laid by agreement unto the part which belonged unto King *Ferdinand*, the confines of which as they had conjuncture with the lands of the Republick, were very intricate; and of great difficultie to conclude, unto whether partie they did belong, as well for the publick reaſons of the ſaid Princes, as for thoſe of their private ſubjects; To end all which in quiet, it was agreed that there ſhould bee an arbitrarie Tribunal erected in *Trent*, for the deciding of theſe doubts, which in the year 1535, pronounced ſentence, whereby all the differences (beeing more then an hundred) were definitively concluded.

Here notwithſtanding the difficultie ceaſed not, becauſ ſom did traverſ the execution of the ſentence, ſo, as in progreſs of time, new

new quarrels did ariſe from both ſides, each one pretending new wrongs offered by the adverſ partie. Whereupon to put an end to all theſe differences, there was by the common conſent, as well of *Ferdinando* (who ſucceeded in the Empire by the reſignation of his brother) as of the Republick, a convention appointed in *Friuli* 1563, of five Commiſſaries, one Procurator, and three Advocates, for each part, who ſhould treat of the differences, as well old as new, and ſhould have power to conclude them, under the ratification of the ſeveral Princes. And this ſo great a number of Judges, was deſired by the Emperor, the better to give ſatisfaction to his ſubjects, of ſeveral Provinces, intereſſed in the cauſ.

Of the Imperial ſide, the Commiſſaries were *Andrew Preghel* a Baron of Auſtria, *Maximilian Dorimbergh*, *Elenger de Goritia*, *Stephen Sourz*, and *Anthonie Statemberger*: the Procurator was, *Giacomo Campana*, Chancellor of *Goritia*: the Doctors or Advocates were *Andrea Rapicio*, *Gervaſio Alberto*, and *Giovan Maria Gratia Dei*. For the Venetians the Commiſſaries were, *Sebaſtian Venier*, *Marino de Cavalli*, *Pietro Sanudo*, *Giovan Baptiſta*

Contarini, and *Augustin Barbarigo*: The Procurator was, *Giovan Antonio* a secretarie: the Advocates *Marquardo Susanna*, *Francesco Gratiano*, and *Giacomo Chizzola*.

At this Convention the complaints on both sides were opened, which beeing argued, and the other publick differences partly composed, and partly decided, there was taken into consideration a Petition of the Imperial Procurator, in this form, *Ejusdē Majestatis nomine requiritur, ut posthac illius subditis, atque aliis in sinu Adriatico tutò navigare, ac negotiari liceat. Item ut damna, Tergestinis Mercatoribus atque aliis illata, restituantur.* It is required in the name of his Majestie, that hereafter it may bee lawful for his subjects, and others, to traffick and navigate safely in the Adriatick Gulf. Likewise that recompence bee made for the damages susteined by the merchants of *Trieste*, and others. And *Rapicio* the advocate did accompanie this demand with saying; that *this was not a cause to bee handled with any subtiltie, it beeing a thing most notorious, that navigation ought to bee free, notwithstanding the subjects of his Majestie had been constrained to go with their ships to* Venice, *and there to pay*

custom,

cuſtom, at which his Majeſtie was aggrieved, and made inſtance that it might bee remedied.

To this *Chizzola,* Advocate of the Republick made Anſwer, ſaying, that it was a clear caſe indeed, that *Navigation ought to bee free*; but yet thoſe things, whereat they were aggrieved, were no waies repugnant to this freedom; foraſmuch as in countries which are moſt free, thoſe who have the dominion thereof receiv *cuſtom,* and order by which way all Merchandiſe ſhall paſs; and therefore no bodie ſhould bee grieved, if the *Venetians,* for their own reſpects, did uſe ſo to do in the Adriatick Sea, which is under their dominion; and hee added, that if they intended to diſpute of the buſineſs in queſtion, hee was to advertiſe them, that this cauſ could not by any pretenſ bee brought into judgment, at that convention, which was onely inſtituted, for the execution of ſuch things as were formerly ſentenced, and for righting of ſuch new wrongs, which ſucceeded after the ſentence; it beeing beſides a thing moſt notorious, that the *Republick,* as Lord of the Adriatick Sea, did exerciſe that dominion at the preſent, which from time out of minde, it had al-

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waies don, without any interruption, as well in receiving of cuſtoms, as in aſsigning of places for the exaction of it, and that the pretenſ now alleged was new, and never before uſed by any predeceſſor of the Emperor, either as King of *Hungarie*, or as Arch-Duke of *Auſtria*, or the countries thereto adjacent, or of his Majeſtie then beeing, for many years, until this preſent time. Hee challenged the Imperialiſts to ſhew, when ever any ſuch thing was before pretended; certainly not before the peace of *Bolonia*; for then ſuch a difference as this (if there had been any ſuch) had been there determined, or referred over to the Arbitrarie Tribunal, wherein were handled above 120 controverſies; but of this not any mention made, neither, from that time to this, was there any ſuch pretenſion once ſet a foot. But if this were a new wrong, ſucceeding after the ſentence of *Trent*, they ſhould ſhew what it was, and when it had beginning, becauſ hee was prepared to ſhew unto them, that any thing concerning the ſame, was of moſt antient uſe and continuance, without the leaſt noveltie in the world; and therefore they ought not to bee heard, who came with

demands,

demands, which could take no original either from the ſentence of *Trent*, or from any innovation of wrongs ſucceeding thereupon.

To this *Rapicio* replied, that hee intended not to lay his principal foundation upon that, which to all is ſo well known, which is to ſay, *that the Sea is common and free*, and that by reaſon thereof, not any might bee prohibited, to ſail unto any place, which beſt pleaſed him: and if any Doctors ſhould happen to ſay, that the Republick hath a preſcript Dominion over the Adriatick Sea, with a long poſſeſsion, notwithſtanding they prove it not: and to Doctors who affirm a thing barely out of fact, without any manner of proof, little belief is to bee given; for which cauſ, hee would not dwell upon that; but would com to his principal reaſon, which was, that admitting the Republick to bee Patron of the Sea, yet the Emperor's Subjects might navigate freely by the Capitulations, which were eſtabliſhed betwixt the Princes on both ſides, and therefore the Petition propoſed was pertinent to bee handled by the ſaid Convention; to which (hee beeing ſo

required by the *Venetians*) added this for a foundation, *Quia libera navigatio Maris Adriatici cùm Majestatis ſuæ Cæſareæ, tum ſubditorum damno & incommodo, ab Illuſtriſſimi Domini Veneti triremium Præfectis impedita fuerit, contra Capitula Vormatiæ, Bononiæ, Andegavi, & Venetiis inita*: Foraſmuch as the free navigation of the Adriatick Sea, hath been hindred by the Captains of the Venetian's Gallies, to the loſs and prejudice of his Imperial Majeſtie, and of his ſubjects, againſt the Capitulations of *Worms, Bolonia, Angiers*, and *Venice*. And here hee produced a paſſage of the Capitulation of *Bolonia* which ſpake as followeth; *Quòd communes ſubditi liberè, tutè, & ſecurè poßint in utriuſque ſtatibus & dominiis tam terrâ, quàm Mari, morari & negotiari cum bonis ſuis, ac ſi eſſent incolæ, & ſubditi illius Principis, ac Dominii, cujus patrias, & Dominia adibunt; providiatúrque, nè vis aut aliqua injuria, ulla de cauſa, eis inferatur, celeritérque jus adminiſtretur*. That the ſubjects of either partie may freely, ſafely, and ſecurely abide, and traffick with their goods, in the States and Dominions of one another, in like manner as if they were inhabitants, and ſubjects of that Prince and State, into whoſe

whoſe Countrie or Dominion they do com: and that it bee provided, that no violence or injurie, bee for any cauſ whatſoëver offered them; and moreover that juſtice bee ſpeedily adminiſtred. Hee alſo recited the capitulations of the truce of *Angiers* and *Worms*, and of the peace of *Venice*, which is not neceſſarie here to repeat, beeing of the ſame tenor. Hee did reſt much upon the word *liberè*, conſidering that *liberè* is joined to the word *Navigare*: by which it ought to bee underſtood, according to the common conſtruction of Law, *That everie one might navigate freely*; but hee cannot bee ſaid to bee *free*, who is conſtrained to go to *Venice*. Hee added moreover, that the word *liberè* could not bee imagined to bee ſuperfluous, but muſt of neceſsitie operate ſomthing; that the two words, *tutè & ſecurè*, could import nothing elſ, but *without impediment*, or *moleſtation*, or *paying of Cuſtoms*; to this hee added, that there were then 400 complaints of his Majeſtie's ſubjects, whoſe veſſels were compelled to go to *Venice*, and there made to pay Cuſtom, for happening onely to arrive in the ports of the *Venetians*; either by

fortune or ſom other occaſion. Hee read the ſentence of a Rector of *Lieſina*, who freed a ſhip, which touched upon that Iſland by chance; and hee made a narration, that certain barks with ſalt were ſuffered by the Venetian Fleet, to paſs upon their Voiage, without ſending them to *Venice*. Hee concluded, that his requeſt extended to theſe three points. 1. That the *Auſtrian* ſubjects might Navigate whither it pleaſed them. 2. That arriving in any Port of the Republick, onely *per tranſitum*, they ſhould not pay any thing. 3. *Laſtly*, that coming to Trade in any of them, they ſhould not pay more then the ſubjects of the Republick. *Chizzola* anſwered hereto, promiſing clearly to ſolv all the objections introduced by the other, ſo as there ſhould not remain any place of reply, and to ſhew with true and lively reaſons, that what was don by the Miniſters of the Republick in the *Gulf*, was don by lawful Autoritie. And reſerving himſelf, to ſpeak of the *Dominion of the Sea* afterwards, howſoëver preſuppoſing it in the firſt place, hee began with the Capitulations; and *firſt* hee ſaid, that the word *liberè*, was not joined, as *Rapicio* ſaid, to any

ſuch

ſuch word as *Navigare*, but to the words *Morari & negotiari tam terrâ, quàm Mari*: & therefore by *liberè* is to bee underſtood as the common conſtruction of Law intend's, when one doth either dwell, or do buſineſs in the houſ, or land of another, that is to ſay, *obſerving the Laws, and paying the Rights of the Countrie*. Hee added alſo, that thoſe Capitulations, betwixt the houſ of *Auſtria*, and the *Republick*, were equally reciprocal, and not made more in favor of the *Auſtrians*, in the State of the *Venetians*, then of the *Venetians* in the State of the *Auſtrians*; neither was there greater libertie granted to the Sea, then to the Land; and that the words were clear enough, which import, that the ſubjects on both ſides might ſtay, trade, and merchandiſe, in the ſtate of one another, as well by Land as by Sea, and bee well intreated; inſomuch as the ſubjects of the *Venetians* were to have no leſs libertie in the Lands of the *Auſtrians*, then the *Auſtrian* ſubjects in the Sea of *Venice*; And that by virtue of thoſe words, what his Majeſtie would have in the State of the *Republick*, it is fitting that hee allow to them in his own State; and if his Imperial Majeſtie within

his own State, upon the Land, will not yield that the ſubjects of the *Republick* ſhall go which way they liſt, but couſtrain's them to paſs by ſuch places onely, where Cuſtom is to bee paid, hee cannot with juſtice demand, that his ſubjects may paſs by or through the Sea of the *Republick* which way they liſt, but ought to content himſelf, that they go that way onely, which ſhall beſt ſtand with the commoditie of thoſe who have the Dominion over it; and if his Majeſtie cauſ Cuſtom to bee paid, upon *his* Land, why may not the *Venetians* likewiſe do it, upon *their* Sea? Hee demanded of them, if by the Capitulation they would have it, that the Emperor was reſtrained, or hindred, from taking of Cuſtom? and if not, why would they have the *Venetians* tied thereunto by a Capitulation, which ſpeak's of both Potentates equally with the ſame words? Hee ſhewed by particular Narration, that from the Peace of *Venice* 1527, until that preſent, the Emperor had increaſed his Cuſtoms, to the grievance of the *Venetian*'s ſubjects, in victuals and Merchandiſe, which paſſed from the one State unto the other; inſomuch as that which formerly

formerly paied but one, was now increaſed in ſom to 16, and in others to 20. and hee inſtanced in iron and other commodities, which were wont to pay little or nothing, were now raiſed to ſuch an exceſsive Cuſtom, as proved much to the damage of the *Venetians*, beſides they were forced to paſs onely by ſuch places, where they ſhould pay Cuſtom, out of which to paſs, it was *Contra banda*, and their goods confiſcated. And if his Majeſtie think's it lawful to do what it pleaſeth within his own eſtate, without breaking of the Capitulations, hee cannot think that the *Venetians* doing but the ſame, ſhould, contrarie thereunto, any waies offend. Hee added, that in every Peace eſtabliſhed betwixt two Princes, after a war, it is neceſſarie that their ſubjects may live and trade together, not to the excluding of Cuſtoms, although there bee excluded the violences, hoſtilities, and other impediments of trade, which were formerly uſed in time of war, neither is the autoritie of the one, or other Prince, thereby taken away or reſtrained by Sea or by Land.

At the force and clearneſs of this diſcourſ, the *Auſtrians* remained as it were in a trance, looking

looking one upon another, insomuch that *Chizzola* judging it not to bee necessarie to dwell longer upon this, passed to the proof of the presupposed truth, viz. *That the Republick had the Dominion of the Sea*, and said; that the proportion was most true, that the *Sea was common and free*, but yet no otherwise that could bee understood, then as it is commonly said, *The high-waies are common and free*, by which is meant, that they cannot bee usurped by any private person, for his sole proper service, but remain to the use of everie one : not therefore that they are so free, as that they should not bee under the protection and government of som Prince, and that every one might do therein licentiously, all that which it pleased him, either by right or wrong; forasmuch as such licentiousnes or Anarchie is abhorred both of God and nature, as well by Sea as by Land. That the true libertie of the Sea, exclude's it not from the protection and superioritie of such as maintain it in libertie, nor from the subjection to the laws of such, as have command over it, rather necessarily it include's it. That no less the Sea, then the Land, is subject to bee divided amongst

amongſt men, and appropriated to Cities and Potentates, which long ſince was ordained by God from the beginning of mankinde, as a thing moſt natural, which was well underſtood by *Ariſtotle*, when hee ſaid, that unto Sea or maritim Cities, the Sea is the Territorie, becauſ from thence they take their ſuſtenance and defenſ; a thing which cannot poſsibly bee, unleſs part of it might bee appropriated in the like manner as the Land is, which is divided betwixt Cities and Governments, not by equal parts, nor according to their greatneſs, but as they have been, or are able to rule, govern, and defend them. *Bern* is not the greateſt Citie of *Switzerland*, and yet it hath as large a Territorie, as all the reſt of the twelv Cantons together. And the Citie of *Norimberg* is very great, and yet the Territories thereof hardly exceed the walls. And the Citie of *Venice* for many years was known to bee without any poſſeſsion at all upon the firm Land. Upon the Sea likewiſe, certein Cities of great force and valor have poſſeſſed a large quantitie thereof, others of little force, have been contented with the next

waters; neither are there wanting Examples of such, who notwithstanding they are Maritim, yet having fertile Lands lying on the back of them, have been contented therewith, without ever attempting to gain any Sea-dominion; Others, who beeing aw'd by their more mightie neighbors, have been constrained to forbear any such attempt; for which two causes, a Citie, notwithstanding it bee Maritim, may happen to remain without any possession of the Sea.

Hee added that God did instant Principalities, for the maintenance of Justice, to the benefit of mankinde, which was necessarie to bee executed, as well by Sea as by Land. That S. *Paul* said, That *for this cauſ there was due to Princes, Cuſtoms and Contributions*: that it should bee a great absurditie to praiſ the well governing, regulating, and defenſ of the Land, and to condemn that of the Sea: that if the Sea in som parts for the ampleneſs and extreme distance thereof from the Land, was not posſible to bee governed and protected, that proceeded from a disabilitie and defect in mankinde; as also there are deſerts so great upon the Land, as it is impoſsible to protect

protect them; witneſs the many ſandie parts of *Africa*, and the immenſ vaſtities of the new world. And as it is a gift of God, that a Land by the Laws and publick power, bee ruled, protected and governed; ſo the ſame happen's to the Sea: that thoſe were deceived by a groſs equivocation, who ſaid, that the Land by reaſon of its ſtabilitie might bee governed, but not the Sea, for beeing an unconſtant element, no more then the aër; foraſmuch as if, by the Sea and the Aër, they intend all the parts of thoſe fluent elements, it is a moſt certein thing, that they cannot bee governed; becauſ, whilſt a man ſerv's himſelf with any one part of them, the other eſcape's out of his power; but this chanceth alſo to Rivers, which cannot bee reteined. But when it is ſaid to rule over a Sea or River, it is not underſtood of the Element, but of the ſite, where they are placed. The water of the *Adriatick* Sea continually run's out of it, neither can it all bee kept in, and yet it is the ſame Sea, as well as the *Tiber*, *Po*, or the *Rhine* are the ſame Rivers now, which they were 1000 years paſt. And this is that which is ſubject to the protection of Princes.

Hee asked the *Austrians* if their pretenſ were, that the Sea ſhould bee left without protection, ſo that any one might do therein well or ill, robbing, ſpoiling, and making of it un-navigable; this would bee ſo abſurd, as hee durſt anſwer for them, *no*: therefore hee concluded, that by a neceſſarie conſequence his Majeſtie would acknowledg, that it ſhould bee kept, governed and protected by thoſe unto whom it did appertein by divine diſpoſition: which if it were ſo, hee deſired to know, if it ſeemed to them a juſt thing that ſuch ſhould do it, with the expence of their own pains, charges, and bloud; or rather that ſuch ſhould contribute towards it, who did equally enjoy the benefit: To this alſo hee durſt anſwer for them, that they would ſay the doctrine of St *Paul* is too clear in the point (not to allege matter of Law) that *all ſuch who are under government and protection, are thereby bound to pay Cuſtoms and Contributions.* And thereupon hee concluded, that if the Republick were that Prince, to whom it did appertein to govern and protect the Adriatick Sea, it followed neceſſarily, that whoſoëver Navi-

gate's

gate's it, ought to bee ſubject to their laws, in the ſame manner as ſuch are, who travel through a Countrie upon the Land.

From thence hee went on to ſhew, that this Dominion over the Sea, from time out of minde, did belong to the Republick, and thereupon cauſed to bee read out of an Abſtract which hee had taken, the Opinions of thirtie Lawyers, who, from the year 1300, until that preſent time, did ſpeak of the Dominion which the Republick had over the Sea, as of a thing moſt notorious, and of which, even in their times, the minde of man knew not the contrarie: ſom of them affirming, that the Republick had no leſs Dominion over the Sea, then over the Citie of *Venice*; others ſaying, that the Adriatick Sea is the Territorie and demeaſnes of the ſaid Citie, making mention of the lawful power which the *Venetians* had to eſtabliſh laws over Navigaon, and to impoſe Cuſtoms upon ſuch as navigate thoſe Seas; and hee added that hee never read any Lawyer, which ever ſaid the contrarie. And turning himſelf to *Rapicio* hee ſaid, that if hee would not believ thoſe Writers which teſtified that the Sea be-

longed to the *Venetians*, whereof they had poſſeſsion from time out of minde, before the age wherein the Autors lived, although they prove it not, yet hee could not denie to receiv them for teſtimonies of ſuch things which they ſaw and knew in their times, and to hold them as witneſſes, far above all exception, beeing famous men, and dead ſo many years ago, as they could not bee any waies intereſſed in the preſent differences. And becauſ more then 250 years were paſt, from the time that the firſt Autors, which hee alleged as witneſſes hereof did write, to the time of thoſe, which hee laſt cited in that behalf; by their atteſtation it was ſufficiently proved, that for long time more then ſo many years, the Republick hath commanded the Sea, and therefore hee could not denie the immoveable poſſeſsion thereof to the preſent.

Afterwards turning himſelf to the Judges, hee praied them, that upon the Autorities alleged, they would bee pleaſed to liſten unto a ſhort conſideration of his, which hee did not doubt, but would leav in them a full impreſsion of the Truth. And *firſt* hee deſired them to conſider, that notwithſtanding

ſtanding ſom of the aforeſaid cited Autors ſpeak with general words, ſaying, the Sea of the *Venetians*, neither declaring the qualitie nor quantitie thereof; yet others do ſpecifie it, uſing the name of the *Gulf*; and others with terms more expreſsive, ſaying, the *Adriatick Sea*; which clearly demonſtrate's, not onely the ſite, but alſo the quantitie of the Sea poſſeſſed; and ſo ſhewed, that thoſe who ſpeak more expreſsively, ought to clear the paſſages of thoſe, who write more generally, according to the common precept, that *with clear places the more obſcure are to bee illuſtrated.* Hee conſidered alſo, that the divers manner of ſpeaking of the ſame Doctors, ſom deriving the Dominion of the Republick over the Sea, from Cuſtom, ſom from preſcription, others from an induced ſubjection, and others from a privilege, did ariſe all out of this reaſon, becauſ as they were moſt aſſuredly informed of the poſſeſſion and juriſdiction of the ſaid Seas, which they both ſaw and heard to belong to the Republick from time out of minde; ſo they writing upon that matter, not at the inſtance of any one, but of their own proper motions, and by way of Doctrine onely,

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each one of thèm judged it moſt convenient to expreſs the title of that juriſdiction, ſom with one term, ſom with another, without coming to uſe the ſole and true proper term, as they would have don, if they had been put to write for the intereſt of any one; in which caſes the Counſellors are alwaies conformable, receiving from the perſon intereſted equally the like inſtructions.

Hee added, that, through the varietie of expreſsing themſelvs, the truth of the cauſ was no waies diminiſhed, but rather increaſed; as St *Auguſtine* ſaith, ſpeaking of the diverſitie which is obſerved to bee betwixt the holy Evangeliſts; becauſ by the diverſ manner of expreſsion, uſed by the ſaid Writers, every one may reſt aſſured, that none of them did write *nè pagato*, *nè pregato*, neither paied, nor praied. In which caſes they are never wont to varie, from the ſingle form preſcribed unto them by the partie intereſſed; but rather hee that ſhall well examine it, ſhall ſee amongſt the Doctors a wonderful concord in this one point moſt true, that after the declination of the Conſtantipolitane Empire, the Adriatick Sea was found to bee for many years abandoned

abandoned, (as alſo many Iſlands and Cities of that State) in ſuch manner, as it remained unguarded and without the protection and government of any Prince, and under the juriſdiction of no bodie, until by the *Venetians*, who, to receiv their livelyhood thereby, were conſtrained to maintain it in freedom; and thereupon taking it into their protection, got thereby the government and dominion over it, in like manner as by the law of Nature and of Nations, the Land, the Sea, and other things, which are not under the Dominion of any other, com juſtly unto thoſe who firſt get the poſſeſsion of them; by which reaſon the firſt Empires were founded, as well upon the Land as at Sea, and daily there are new ones in the ſame manner formed, when any of them, either through age or vice, becoming weak, wanteth force, and ſink's of it ſelf. The which coſtodie and government of the Sea, ſo acquired, the Republick hath daily advanced, by the keeping of potent Fleets and greater Armadoes every day then other, with the expence of a great deal of Treaſure, and the profuſion of a world of bloud, both of their

Citizens and Subjects, continuing without interruption, in ſight of all the world, the ſaid begun Dominion and cuſtodie, overcoming and removing all ſuch impediments, as either by Pirates or Potentates, as well of *Italie* as of the oppoſite ſhore, at divers times have been raiſed. And for the clearing of ſuch doubts, as might ariſe by the ſubtil conſtruction of words, hee added; that although thoſe who took upon them to ſpeak in the ſtrict terms of the Law, were wont to ſay, that ſuch things onely were gained by Cuſtom, which by the Civil Law, beeing to bee common, were notwithſtanding converted to a private benefit, yet without any impeachment of the publick profit, as to fiſh in a River without impeachment of Navigation; yet for all that, the Title of Cuſtom cannot bee unproperly given, where there ſhall bee gained and continually kept in poſſeſsion and Dominion, a quantitie either of Sea or Land abandoned, and of no man poſſeſſed, as *Bartholus*, *Baldus*, *Caſtro*, and others do affirm. And although that by title of *Preſcription* a thing cannot poſsible bee ſaid to bee poſſeſſed, unleſs, by the occupation of it, another

bee

bee thereof ſpoiled and diſpoſſeſſed, which title come's not in this place, foraſmuch as the Republick hath not ſpoiled any of the poſſeſſion of the Sea, but hath ſeized upon it, finding it abandoned & without Patron or Poſſeſſor : notwithſtanding in ſom ſort, it may bee called *Preſcription*, as if a Falcon were let flie and caſt off by its maſter, and thereupon growing wilde, ſhould after bee taken up by another, and by him mann'd, and for a long time fed; although not properly, yet not abſurdly it may bee ſaid, that this ſecond maſter hath it by *Preſcription*. Likewiſe, to ſpeak in terms of Law, the proprietie of ſpeech doth not admit the uſe of this word *Servitude*, unleſs to the proper Territorie of a State, there bee gotten ſom power over another State, and yet that State remain's Patron of its own notwithſtanding; in this ſenſ the Republick hath not brought the Sea in ſervitude to the Citie of *Venice*, becauſ it hath not gotten any ſpecial uſe or command over it, the Dominion for all that remaining to another Patron, but hath aſſumed the total and intire Dominion thereof, which was before abandoned, neither

by any governed or protected: nevertheleſs it may in a certain proportion bee called *Servitude*, inaſmuch as the Republick hath been conſtrained to aſſume the total Dominion and Government thereof, for the ſervice of the Citie of *Venice*, whereof it had neceſſarie uſe.

Now as touching the *Privilege* of keeping this Sea, and who was the Donor, this neither can here have any place, foraſmuch as at the time of the aſſumption of it, there was not any who could make any grant thereof, the Emperor of the VVeſt never having any Power or Autoritie over it; and as little ſuperioritie or juriſdiction had any other weſtern Prince; and therefore could ſo much the leſs give it to another. The Emperor of the Eaſt, not having force ſufficient to keep it, had long ſince abandoned it, and beeing thereupon diveſted of all the Power hee had over it, and of the Poſſeſſion thereof, never made any grant thereof in the ſucceſsive Peace and Treaties which happened afterwards betwixt the ſaid Empire and the Republick. Notwithſtanding all which the *Italian* Lawyers, as Profeſſors of the Ceſarean Law, & ſworn to the

the very words of it, beeing beſides moſt devoted to his Imperial Majeſtie, as if at this preſent day *Auguſtus* or *Antoninus* did reign, do force themſelvs with all extortion, to verifie upon the weſtern Emperor that ſaying, *Imperator eſt Dominus Mundi*, The Emperor is Lord of the world. VVhich at that very time when it was firſt pronounced, was not true in the hundred part of the world, and at this preſent not in any conſiderable proportion. And whileſt they would honor the Emperor, and give him, with ſuch words as theſe, that which hee neither hath nor can have, they conſider not the abſurditie of the ſpeech, as if they ſhould ſay, that no King poſſeſſed any eſtate lawfully, unleſs it were granted him by the Emperor, which is as true, as when they affirm that the *Venetians* poſſeſs the Adriatick Sea, by an Imperial privilege. But it appear's clear enough, in what ſenſ this is ſpoken by them, becauſ there is none of them do intend thereby, that there was ever any ſuch Grant made thereof by the Emperor; but by that they do figuratively intend a privilege aſſumed by immemorable poſſeſsion, which poſſeſsion they interpret to

bee with the knowledg and ſufferance of the Emperor, which is as much as if they ſhould ſay, that Chriſtian Kings poſſeſs their Kingdom, and the Republick poſſeſſeth the *Adriatick Sea*, as lawfully by their title of acquiring it, as if thoſe Kingdoms and that Sea had belonged to the Emperor, and from and by him to thoſe Princes, and to the Republick afterwards granted. So ſpaciouſly did *Chizzola* dilate in ſpeaking of the opinion of the Lawyers, it beeing the field of his profeſsion: hee concluded, that any one might reſt ſatisfied, as well in truth, as in reaſon, that by the Autoritie of the ſaid Doctors, there were ſure foundations laid to the cauſ, which hee did defend.

After the teſtimonie of the Lawyers, hee added that of the *Hiſtorians*, who do relate, that the Republick, for more then 300 years paſt, did receiv Cuſtom, of ſuch as ſailed that Sea, and kept armed veſſels in a readineſs, for to compel all ſuch Ships ſo ſailing, to go to *Venice*, teſtifying moreover, that even unto their preſent time the ſame Cuſtom was obſerved. But upon their atteſtations hee dwelled not much, ſaying, that

that though they were good Teſtimonies of preceding occurrences; yet when one goeth about to prove the intereſts of Princes, or of private perſons, hee ought to help himſelf by authentick writings, and to uſe the Hiſtorians with great diſcretion; ſom of them beeing moved by love, others with hatred, and others with hope of preferment; which conſtrain's them oftentimes to uſe flatterie, or Hyperboles, upon which cannot bee laid any ſure foundation.

Wherefore hee produced an act of the general Council of Lions, *anno* 1274, where the Abbot of *Nerveſa*, beeing delegated by the Pope (upon a pretenſion of thoſe of *Ancona* to have free Navigation upon the Adriatick Sea) ſentenced, that the demand ſhould bee rejected, and that the *Venetians* ſhould not bee moleſted in the defenſ and protection thereof, from the *Sarazens* and Pirates, neither ſhould bee diſturbed from exacting thereupon their Rights and Cuſtoms, which they had of victuals, merchandiſe and other portable Commodities.

Chizzola likewiſe added, that it is clean out of memorie, when firſt of all there was created

created in *Venice*, a *Captain of the Gulf*, becauſ in the year 1230, the Chancerie was burned, with the memorials of all ſuch elections; but from that time to this preſent, hee could ſhew out of the publick Regiſters, the continual ſucceſsion of the ſaid elected Captains without any interruption. Likewiſe hee added moreover, that there remain the Regiſters from that time to this, of the Licenſes granted to paſs the ſaid Sea, with armed veſſels or ſhips of war, and to the perſons and goods belonging to their uſe, at the requeſt of divers Princes, who had their Poſſeſsions upon the ſhore of the *Adriatick* Sea, and that as well by ſundrie Popes, Legates, Vicars, Governors, and Commonaltie of the Land of *Romania* and *Marca*, as by the Kings of *Naples* for *Puglia*, of which many were granted, ſom denied and others yielded to, but in part; But it beeing ſuperfluous to allege the Acts of thoſe, the Succeſſors of whom do not ſo much as queſtion this Title, hee deſcended to particularize onely the Predeceſſors of his Majeſtie, as Kings of *Hungarie*, and Arch-Dukes of *Auſtria*. Hee recited a Brief of Pope *Urbane* the ſixt, directed to *Antonio Veniero* the Duke

of

of *Venice*, bearing date *Luca* 14 Junii 1388. where hee give's him thanks, that with his Gallies deputed for the keeping of the Gulf, *Marie* Queen of *Hungarie* had been inlarged, who had been kept prisoner in *Castel-novo*; with two other congratulatorie Letters, the one to the said Queen, the other to King *Sigismund*, who after was Emperor, beeing her Husband, rejoicing with them likewise of the said enlargement made by means of the Captain of the *Venetian* Gallies, deputed to the custodie of the *Gulf*. Afterwards hee caused to bee read a safe Conduct granted at the Petition of *Rodulph* Earl of *Sala*, in the name of *Ladislaus* King of *Naples*, and of *William* Arch-Duke of *Austria* anno 1399. 12 *Decembris*, that the sister of the said King (espoused to the aforenamed Arch-Duke) might bee conducted by Sea from *Puglia*, to the Coasts of her Husband, with Gallies and other Vessels, in all to the number of about twelv; with condition that there should not bee suffered to pass upon them any *Bandito* or banished person of *Venice*, who had don any thing against the Republick, which did merit death: which safe-conduct should bee available to the *Austrians*, as well in going as in

coming, ſo as by the ſame, they might alſo re-imbark at *Trieſte* and return unto *Puglia*. But yet this ſafe Conduct was not made uſe of, becauſ the King having deferred the departure of his ſiſter for a ſmall time, in the *interim* ſhee died.

Alſo hee produced two letters of the Emperor *Frederick*, unto Duke *Giovanni Mocenigo*, the firſt dated in *Gratz* 24 Sept. 1478. the other 2 Apr. 1479. from the ſame place, where hee tell's him that hee having taken order that there ſhould bee brought from *Puglia* and *Abruzzo*, to his caſtles of *Caſtro* and of *Iſtria*, a certain quantitie of corn, hee requeſt's that it may bee permitted him to do it freely, which beeing to him a great pleaſure, hee ſhall acknowledg it with many thanks.

This hee ſeconded with a letter of *Beatrice* Queen of *Hungarie*, to *Giovanni Mocenigo* Duke of *Venice*, dated the laſt of Jan. 1481. whereby deſiring for her proper uſe to have divers things from the parts of *Italie*, which ſhee could not bring from thence by Sea, without the permiſsion of the Republick, ſhee deſired that, for curteſie ſake and friendſhip, it might bee granted her, which ſhee ſhould take for a great favor,

and

and correſpond upon the like occaſion.

And another of *Matthias* King of *Hungarie* to the ſaid Duke dated 26 *Febr.* 1482. where relating how the Republick was accuſtomed to give Licence every year to Count *Frangipani* Patron of *Segna* and other Maritim places, to bring from *Puglia* and *Marca* a certain quantitie of victuals, and that after the ſaid places, were paſſed over into his hands, hee had omitted to deſire it; wherefore hee now praied, that the ſame grace might bee ſhewed unto him, and that concerning this, hee would write his letters and give them to a perſon which hee had ſent expreſsly to receiv them; which hee ſhould acknowledg as a favor and correſpond accordingly.

And another of the ſame King to *Auguſtino Barbarigo* the Duke, dated 18 *Oct.* 1487. in the which relating, that hee having need of wood for the reparation of a fortreſs ſtanding in the mouth of *Narenta*, hee praied, that hee might have leav to carrie it unto *Segna* by Sea, and that there might bee Letters Patents made thereof, offering to gratifie him in a greater matter.

Hee added to this a Letter of *Anne* Queen

of *Hungarie* 30. *Aug.* 1502. in the which recounting the ſterilitie of the Countrie of *Segna*, ſhee deſire's leav to bring certain victuals from *Puglia* and *Marca*, and that hee would give to the bearer, who was ſent on purpoſe, Letters of Licenſ for the ſame, promiſing to acknowledg it as a great favor and courteſie.

Laſtly, hee produced a Letter dated 3 *Sept.* 1504. of *Giovanni de Dura* Captain of *Piſmo*, ſervant to the Emperor *Maximilian*, which hee writ unto the Duke *Leonardo Loredano*, importing, that *Giacomo Croato*, a ſubject of his Majeſties, parting from *Fianona*, entered into the Sea, which is under the Dominion of the Republick, for to go to *Segna*, and was there aſſailed by an armed Bark of Pirates in contempt of the Signorie or Republick, and ſupplicate's that ſom order might bee taken therein.

Upon all which particulars, hee weighed moſt that which ought beſt to bee conſidered, having reſpect to the times, perſons, and qualities of the ſeveral Princes, and for greater confirmation of their aſſent, hee remembred the yearly Cerimonie uſed at *Venice*; where the Duke, in preſence

fence of the Ambaſſadors of other Princes, particularly of his Majeſties, did uſe to eſpouſ the Sea, by the caſting of a Ring into it, with theſe words: *Deſponſamus Te Mare in ſignum veri & perpetui Dominii*: Wee do marrie the Sea, in ſign of our true and perpetual Dominion over it. VVhich Cerimonie as the foreſaid writers do affirm, had beginning when Pope *Alexander* the Third was in *Venice*, notwithſtanding they add withal, that it was inſtituted in ſign of the Dominion which the Republick had formerly gotten, *jure belli*.

To the 400 complaints of the Emperors Subjects, and to the ſentence of *Lieſina*, hee anſwered, giving thanks for the remembring of them, as a thing brought in much to his favor, becauſ the complaints do preſuppoſe the prohibition, and the ſentences, either condemning or abſolving, do prove the juriſdiction.

And to the ſalt-barks, hee ſaid, that they were not ſuffered to go to *Venice*, as never any are ſuffered to go, all forrein ſalt beeing prohibited to enter into that Citie; and if it were not caſt into the Sea, it was a courteſie, which ought

not to bee imputed to them to their prejudice.

Hee concluded, that hee had delivered the true ſenſ of the Capitulations, and proved the immemorable poſſeſsion of the *Adriatick* Sea; that hee could have ſaid much more, but it ſeemed to him ſuperfluous, and theſe two points were made moſt clear; *Firſt*, That this pretence of the *Auſtrians* was but new; And *ſecondly*, That their Petition at this Convention could have no place.

The Imperialiſts after they had conferred together, took a reſolution not to perſevere in the demand of Juſtice, and the Baron with *Suorz* ſaid openly, that the *Republick was Patron of the Gulf, and might impoſe what Cuſtoms they thought fitting; and that they thought ſo in their conſciences*: but therewithal they were of an opinion, that for honeſtie ſake, and for the friendſhip which the Republick had with the houſ of *Auſtria*, it ſhould bee don with the leaſt incommoditie of the ſubjects to that houſ, as could bee poſsible. The other three ſaid, that it was now no time, either to approve or to diſapprove the Dominion of the Sea, but rather to

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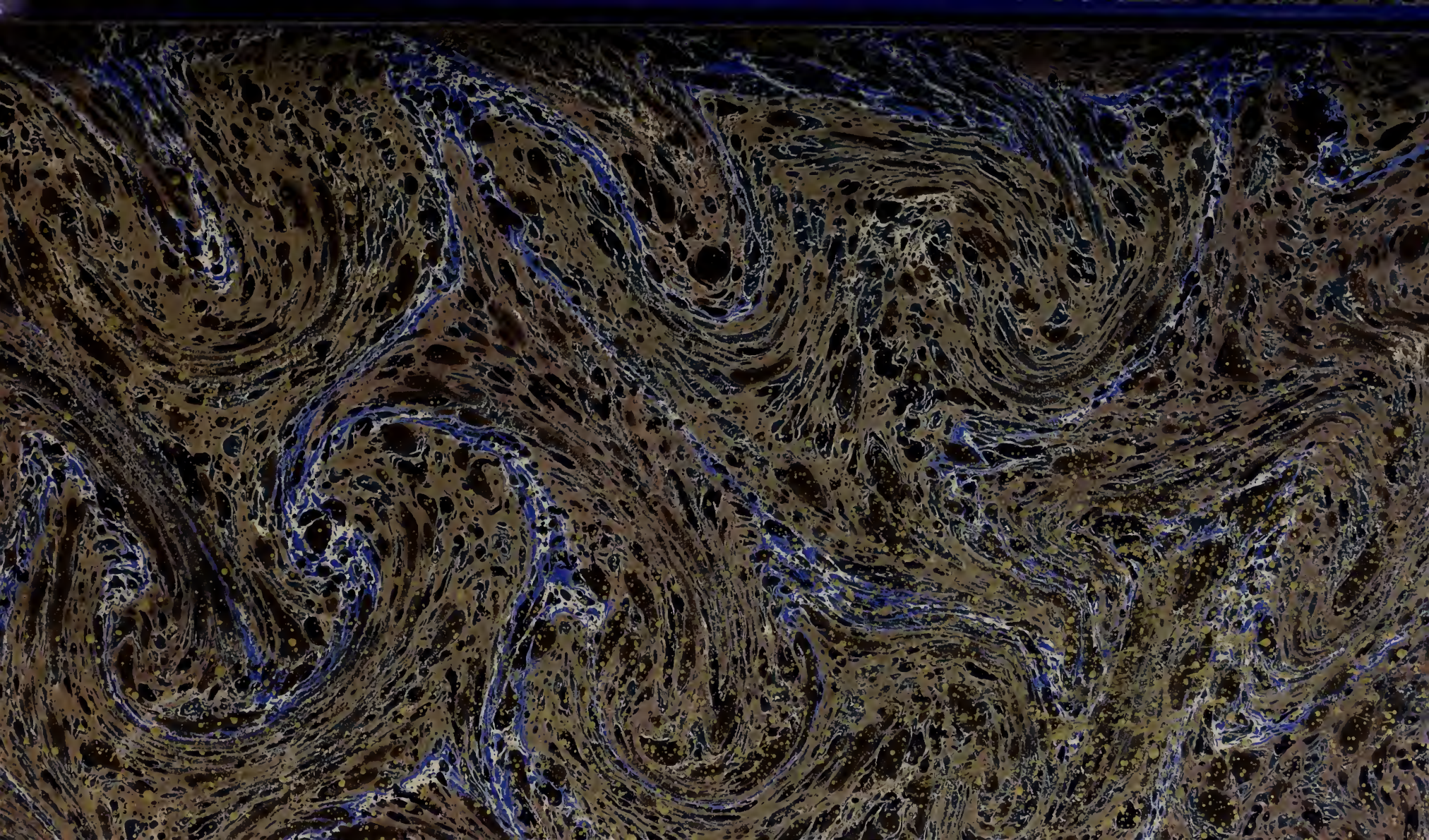
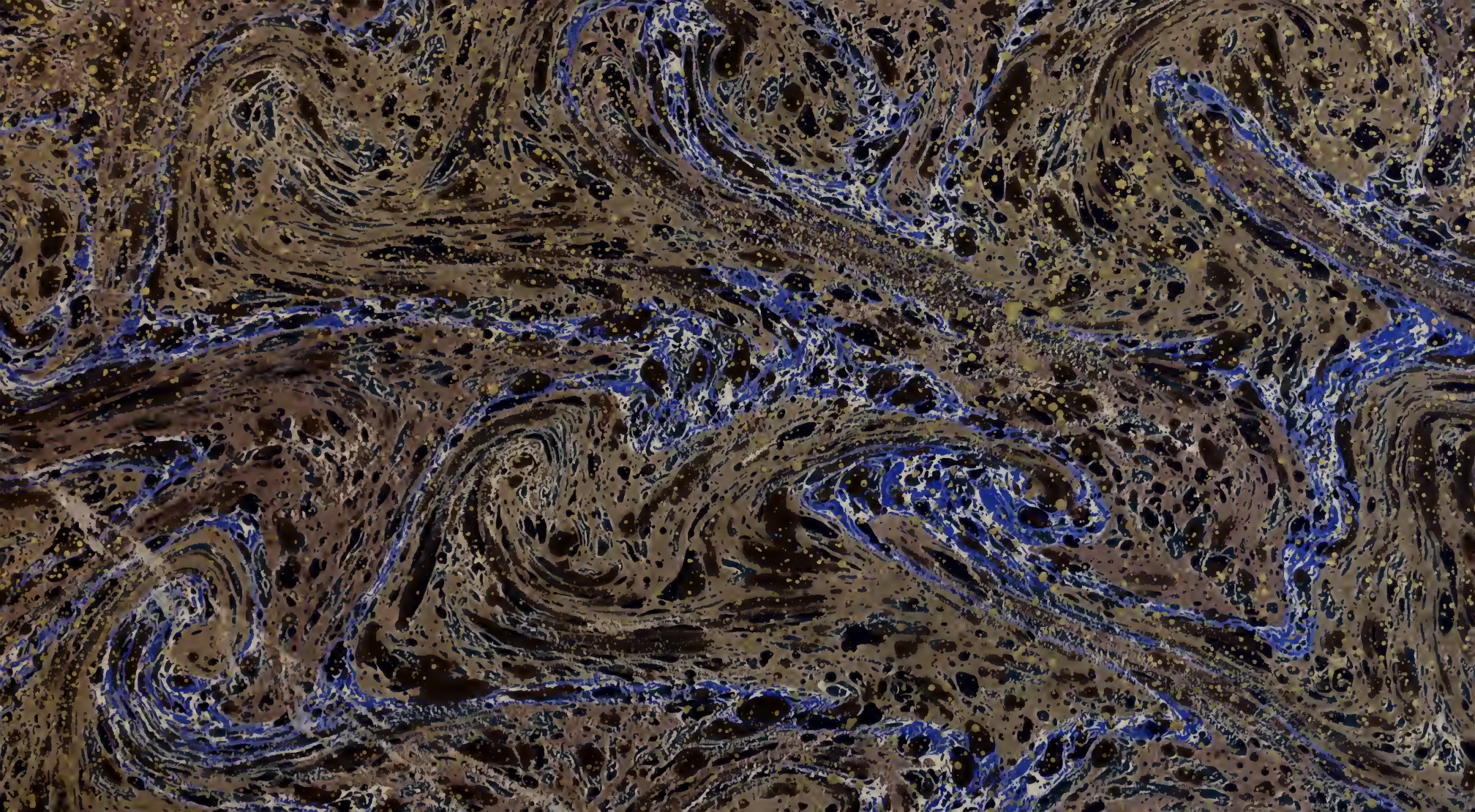
to finde by way of courteſie ſom kinde of temperature, whereby the Republick might receiv the Rights belonging thereunto from the *Auſtrian* ſubjects ſailing thoſe Seas, and on the other ſide, that ſuch conditions annexed formerly thereunto, might bee taken away, which were incommodious to the *Auſtrians*, and no waies profitable to the *Venetians*. Whereupon divers waies to effect it were examined, and a concluſion taken to refer all to their ſeveral Princes, as it was neceſſarie to refer all things elſ; the Commiſsion beeing to bee onely perfected by their ratification, and ſo this Convention ended.

FINIS.

Jo: Harrison